Monetary Laws of the United States

Volume I

Matt Erickson

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Author's Note: When I completed writing ***Monetary Laws*** in 2012, I hadn't yet boiled down the single political problem facing the United States down into its core component; as such, the necessary political "cure" hadn't yet occurred to me.

As such, ***Monetary Laws*** only exposes the problem of "how" exactly, members of Congress and federal officials cleverly bypass their normal constitutional constraints with impunity (which exposure, of course, is ultimately necessary before restoring the original path of the framers of the Constitution).

But, it is still necessary to best ensure that scoundrels do not continue to get away with their deception—education of their mechanism to gain great political power is not, in the end, perhaps enough to remove that powerful tool from their toolbox forevermore. Thus, I provide my "Once and For All Amendment" as the necessary political cure to forever close the clever loophole that has been exploited beyond all measure in my later publications.

My most recent book, ***The Peculiar Conundrum*** (a sports allegory looking at complicated legal issues from the simplistic angle of sports rules) perhaps best exposes the core issue in its simplest terms and details the political work necessary to end political tyranny once and for all.

For those preferring non-fiction, I recommend reading ***Patriot Quest***, the shortest and most condensed of my three non-fiction works that all cover much of the same information in differing degrees. ***Dollars and nonCents*** would be recommended next, ***Monetary Laws*** to follow.

Readers wanting to read more non-fiction may then read ***The Beacon Spotlight*** and ***The Beacon of Liberty*** newsletters.

For those enjoying fiction, after reading ***The Peculiar Conundrum***, please read the three-novel fiction set, ***Bald Justice***, ***Base Tyranny*** and ***Bare Liberty*** (in that order).

Fiction

Non-Fiction

Monetary Laws of the United States

By Matt R. Erickson

Forward

As the name suggests, ***Monetary Laws of the United States*** (or simply "***Monetary Laws***") contains a compilation of the U. S. monetary laws. The text of these laws are organized into the following 14 divisions and presented in ***Volume II*** as Appendices (Volume II is a separate document and is not found herein; both are electronically available online without charge at www.MonetaryLaws.com):

A. Organic Documents
B. Mint Statistics through 1902
C. Preliminary Coinage Reports
D. Primary Coinage Acts
E. Secondary Coinage Acts
F. Foreign Coinage Acts
G. Early Commemorative Coins
H. Modern Commemorative Coins
I. Acts regarding Mints
J. Acts Regarding Notes
K. Criminal Monetary Jurisdiction
L. The Great Deception
M. Miscellaneous Coinage Acts
N. Monetary Portions of Title 31 of the United States Code

Monetary Laws (Volume I) is the narrative portion which expounds upon the pertinent issues of the monetary acts listed in Volume II, the underlying purpose of which is to demonstrate how the government of the United States which appears to operate wholly independent of the vast bulk of the Constitution actually conforms precisely to it (though not within its intent).

The means used to show that end is to explain how irredeemable legal tender paper currency began circulating alongside and then later in the place of gold and silver coins. In the particular case, highlighted is the power of Congress "To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures" as listed in Article I, Section 8, Clause 5 of the U.S. Constitution.

Detailing the methods used to deceptively transform the United States from a solid monetary standard of silver and gold coin into a pit of financial quicksand without standards then serves as a blueprint to learn how the United States appears to operate superior to the Constitution in all other courses of action. Although the settings may differ, the methods are generally similar.

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Preface

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Volumes I and II may be published or reproduced individually or independently of each other, although Volume II should be designated as such (at least if the ***Monetary Laws*** title is maintained).

The express intent and purpose of this work is to expose to the purifying light of day the deceptive methods used by government to operate beyond normal constitutional limitations. Detailed as an example of that purpose is showing how the United States were converted from using money of gold and silver coin to legal tender paper currency and base-metal coin; as such, any disagreements which may develop over ***Monetary Laws*** are to be viewed from this perspective of encouraging dissemination of this knowledge in its original form.

Given our American monetary history under the Constitution (beginning with gold and silver coin and ending with rapidly-depreciating paper), a book discussing the journey from there to here must exercise particular care to accurately explore and thoroughly detail the intricate nature of the monetary acts in order to regain what was lost. This is the goal of ***Monetary Laws***.

This author apologizes that ***Monetary Laws*** is perhaps anything but concise. Instead of brevity, this author has striven for accuracy and the methodical detailing of the subject at hand. Concepts are also often stated in a number of different ways, because what may unlock a concept for one person may need to be stated another way to work for someone else.

This author considers it necessary that this level of information be available for the most demanding of readers, but once it is accessible, that lower-intensity works may then help popularize this information far and wide.

Other authors are therefore encouraged to help provide this valuable service of digesting the information in a multitude of ways for widest possible dissemination to different target audiences.

An admission of fallibility is herein appropriate — any corrections proven necessary will be incorporated in any later editions which may be published by the author, while a list of corrections of Volume I will be maintained at www.MonetaryLaws.com.

Corrected versions of the texts of the laws of Volume II will also be kept updated at www.MonetaryLaws.com.

Persons interested in obtaining a printed and bound version of ***Monetary Laws*** are encouraged to locate a suitable print-on-demand digital publisher that specializes in printing books individually. Should any publisher(s) publish a printed version of ***Monetary Laws***, their contact information (if known by this author) will be posted at www.MonetaryLaws.com.

If for any reason this author cannot maintain www.MonetaryLaws.com and a copy of ***Monetary Laws*** cannot be found elsewhere, it should always be able to be found in the public records of Clark County, Washington (by looking up the Auditor's file number provided at the beginning of this Preface).

Monetary Laws of the United States

Volume I: NARRATIVE DISCUSSION

Chapter 1: Constitutional Overview

In discussing the monetary laws of the United States, it is appropriate to start with the supreme law — the Constitution for the United States of America — because every act of Congress must follow its mandates.

Due to widespread misunderstanding of the basic structure of American government, it is necessary to first discuss a few basic constitutional principles before delving into the monetary powers. This will perhaps provide readers a better outline of American government into which one may place the information gathered herein. Readers even well-versed with our Constitution are encouraged to read this outline, as the information herein may well be presented in a different light regarding this important subject.

Government is Power

James Madison, often referred to as the "father" of the Constitution, stated in a speech before the Virginia constitutional convention (during ratification debates of the 1829 State Constitution, as detailed on the outside wall of the James Madison Memorial Building at the Library of Congress in Washington, D.C.):

> "The Essence of Government is Power".

Madison's statement provides a good starting point for learning fundamental characteristics of our American system of government.

A quick look to the **U.S. Constitution** confirms at least the basic tenet that "government is power". For example, **Article III, Section 1** details (underscore added in all cases below):

> "The judicial <u>Power</u> of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish..."

Article II, Section 1, Clause 1 likewise proclaims:

> "The executive <u>Power</u> shall be vested in a President of the United States of America..."

Article I, Section 1 further declares:

> "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

An additional look into a few of the enumerated powers of Congress helps prove the charge that government is all about power. **Article I, Section 8, Clause 1**, for example, declares in part that:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States."

Article I, Section 8, Clause 3 declares that:

> "The Congress shall have Power...To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

Article I, Section 8, Clause 11 proclaims that:

> "The Congress shall have Power...To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water."

Government, then, is power — but toward what purpose?

As acknowledged within our Declaration of Independence, men have unalienable rights endowed by our Creator, including the right to life, liberty, and the pursuit of happiness.

Governments are specifically instituted among men, as told by our Declaration, "to Secure these rights". The purpose of American government is then to protect our rights, not to be the greatest transgressor of them.

While government may be all about power, its explicit purpose is to secure man's unalienable rights.

Left unchecked, government power invariably becomes antithetical to man's rights. As such, one would expect to find limitations on American government to protect against destroying its very purpose, so the end is not sacrificed to the means.

Though the Constitution grants express power to government, Americans with expectations of also finding limitations on government power within the Constitution will not be disappointed.

One of the most powerful constitutional protections is found in **Article IV, Section 4** of the U.S. Constitution which declares, in part:

> "The United States shall guarantee to every State in this Union a Republican Form of Government."

A *republican* form of government is *representative* government, a form of government where laws are enacted by legislative members operating within their powers as delegated by the very citizens whom they were elected to represent.

One of the fundamental rallying cries of the revolution was “no taxation without representation”. This shows that the critical element was not taxation, *but lack of representation*. The highest concern of the American patriots who rebelled against tyranny was the lack of voice in formation of one’s own laws (by representatives of their own choosing). Their demand for self-government was backed up with their resolute action against tyranny.

The Declaration of Independence lists many facts to prove the King of Great Britain had been “unfit to be the ruler of a free people”.

Foremost among the Declaration's list of abuses and usurpations showing the king’s lack of fitness to be “the ruler of a free people” was of the king pressing the American colonists to “relinquish the right of Representation in the Legislature”. The Declaration held legislative representation of a free people to be a “right inestimable to them” and declared the king's call for relinquishment of that sacred right was “formidable to tyrants only”.

From the explicit constitutional guarantee of a republican form of government to the Declaration's insistence of this inestimable right of free people, one cannot overlook the fundamental importance of legislative representation. The Declaration concedes that without representation in the legislature one will soon find tyranny in the executive.

In that even a quick glance at our founding documents produced a curtailing effect to the principle that government is power, a further look is in order to learn more how sufficient power was granted, yet held in proper check from going beyond proper sufficiency.

A simple compare and contrast between Articles I, II and III detailed earlier show a fundamental difference between Article I (legislative) and Articles II & III (executive and judicial, respectively).

The Constitution unequivocally vests the judicial power (without further qualification) in the courts.

Article III, Section 1 details:

> "The judicial Power of the United States, shall be vested in…(the) Courts."

The Constitution likewise vests the (unqualified) executive power in the President.

Article II, Section 1, Clause 1 specifies:

> "The executive Power shall be vested in a President of the United States of America."

Note, however, how **Article I** reads in regards to the legislative power (with **Section 1** reading):

> "All legislative Powers herein granted shall be vested in a Congress."

Careful study of Article I will show that conspicuously absent is a similar comprehensive investment of the (whole) legislative power with the Congress. One must note that only *some* individual legislative *powers* were vested with Congress, NOT the whole legislative "power".

It is crucial to realize that while the U.S. Constitution discusses the judicial power and the executive power — "power" there worded singularly in both cases as the whole power — with regard to the legislative branch, however, the Constitution here actually only discusses specific legislative powers ("powers" worded here in the plural form with the "s" added to the end) — the individual powers "herein granted" *which were thereinafter enumerated*.

Notably, Article I does NOT declare (in similar fashion to Articles II and III):

> "The legislative Power shall be vested in a Congress."

Article I actually details (italics and underscore added):

> "All legislative Powers *herein granted* shall be vested in a Congress."

No more legislative power is vested with Congress than the powers specifically granted within the Constitution.

Though the word "All" in Article I appears inclusive, words of limitation follow ("herein granted"). The net effect is to exclude other general powers not therein granted.

It is interesting to ponder that a re-statement of "All legislative Powers herein granted shall be vested in a Congress" as "*Only* the legislative Powers herein granted shall be vested in a Congress" does not change the meaning to any significant degree.

The express acknowledgement that the listed enumerated powers were *granted* to Congress (and the President and the courts) in the first place explicitly recognizes that there must be some other entity or individual, or a number of other entities or individuals, who grant(s) the powers to the Congress (and who grant the executive and the judicial branches their respective power).

This principle is confirmed in the Constitution by **Article VII, Clause 1** which reads:

> "The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same."

The separate States, when enough of them individually ratified the Constitution, ceded legislative power over to the Congress of the United States of America (and the executive power to the President and the judicial power to the courts) operating now under the Constitution.

Further, the express limitation of the grant of legislative powers to include only the powers specifically granted therein acknowledges the point that the general legislative powers which were not granted to Congress *are yet located elsewhere*.

Article V covers the process of amending the Constitution and further supports this principle of reserved powers elsewhere vested (from which new powers may be inevitably drawn [or withdrawn]). **Article V** reads, in part:

> "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application

> of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof."

Article V shows there are two and only two methods for modifying the Constitution. In the first mechanism, Congress, with sufficient numbers, may (only) propose amendments. These proposed amendments *are then sent to the State legislatures for debate and possible ratification*.

The second mechanism allows for two-thirds of the State legislatures to call for a convention for proposing amendments (bypassing Congress completely). Any proposed amendments of such a constitutional convention would be debated and perhaps ratified then by the individual State ratifying conventions.

As one can plainly see, only the States ratified the Constitution and only the States may ratify amendments or attend conventions; i.e., *only the States* themselves have the authority to decide the ultimate powers provided or allowed the United States.

Only the States decide the powers allowed the United States, because it is within States where the residual government authority is lodged, and from where those reserved powers may be delegated, *when the States so decide*.

The individual States acting together created the United States and the individual States acting together determine the extent of powers allowed the United States, because it is the individual States acting together which *are the United States*.

Of course, that the States ultimately control the matter is backwards from common understanding — that the United States essentially dictate to the States. Without the States, *there are no United States*.

Since the States ratified the Constitution and ratify all amendments, the States in their individual capacities clearly have at least some of the residual legislative authority.

This principle is confirmed by the **Tenth Amendment**, which plainly declares:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

All powers besides those listed in the Constitution remain with the States or within the people at large.

In discussing the powers granted to the Congress of the United States, one must thoroughly understand that phrase, as well as the proper relationship between the separate States and the United States.

Article I, Section 1 earlier discussed provided that "All legislative Powers herein granted shall be vested in a *Congress of the United States*".

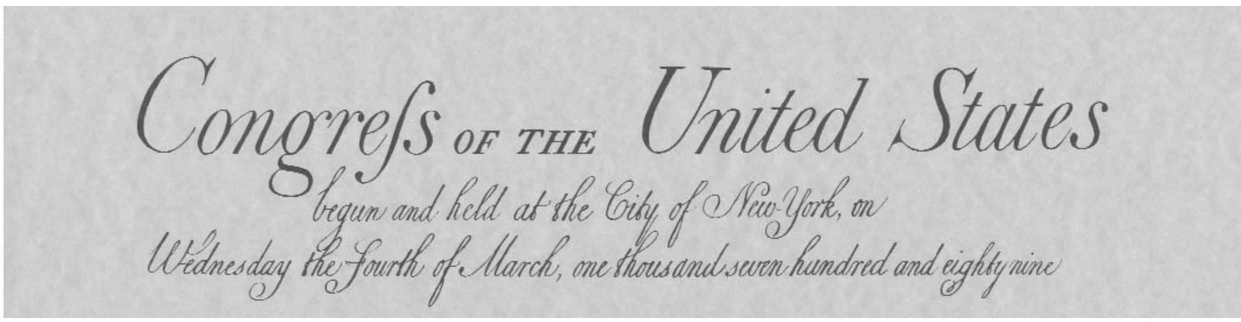
At first glance, and actually even after prolonged study, it is perhaps natural to think of Congress simply as but one of three entities of the federal government (along with the executive

and judicial branches). If one misunderstands Congress as but an entity, however, one may easily misunderstand the very relationship between the States and the United States.

Literally and most properly, the Congress of the United States of America is NOT an *entity* but first and foremost a *meeting* or an *event*.

This is perhaps easiest understood by looking at one of our country's organic documents for clarification. For example, if one looks at the Bill of Rights, one finds that it commences with the following words:

> "Congress of the United States, begun and held at the City of New-York, on Wednesday the Fourth of March, one thousand seven hundred and eighty nine."



To better understand "Congress", concentrate on the phrase "Congress…begun and held". If one understands *Congress* to mean an entity, then the Bill of Rights does not make sense, for *Congress* as an entity cannot "begin and (be) held", for an *entity* cannot be "held".

An *event*, in contrast, can "begin" and can also be "held". One can say "event…begun and held" and have it make sense. Variations on that thought also make sense: "meeting…begun and held"; "meeting of the United States, begun and held"; "Congress of the United States, begun and held" (when *Congress* means "meeting").

The Bill of Rights began as a (joint) resolution of Congress, which is worded where the rubber meets the road as are all other legislative resolutions: "Resolved, by the Senate and House of Representatives of the United States of America, *in Congress assembled*…"

One must not overlook the meaning and importance of the phrase "in Congress assembled" within every resolution.

Every legislative act enacted by the members of Congress is similarly styled: "Be it enacted, by the Senate and House of Representatives of the United States of America, *in Congress assembled*…"

Every legislative act and *every* legislative resolution throughout our American history confirms that Senators and Representatives of the several States assemble together in a congress of all the States (assemble together in a meeting of all the States, meet together in an assembling of all the States) and pass laws within the authority ceded by every State as evidenced by the U.S. Constitution. The representatives of the States meet together for the concerns of all the States.

“Congress”, “assembly”, and “meeting” are inter-changeable words signifying a congregating together in legislative session of the significant parties which are the United States, the united States of America.

Article I, Section 4, Clause 2 of the Constitution confirms the literal meaning of Congress as a meeting of the States when it declares (underscore added throughout all of the instances below):

> "The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day."

Article I, Section 4, Clause 2 twice reinforces the concept of Congress as but a meeting. In the first instance, one finds the wording that Congress “shall assemble”, confirming the assembling together in a meeting the pertinent delegates of the States (i.e., the Senators and Representatives).

Yet in the same clause “such Meeting” refers back to “Congress”; both “such Meeting” and “Congress” have the same meaning.

Article I, Section 2, Clause 3, again literally confirms Congress as a “meeting”:

> "The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States…in such Manner as they shall by Law direct."

Article I, Section 5, Clause 4 discusses a “Session of Congress” and the “sitting” of both Houses (in a session or meeting).

If Congress were but an entity, the singular personal pronoun “it” would be used when referring back to Congress within the same sentence. One should notice that the Constitution uses a third-person personal pronoun when referencing Congress, however. This helps show Congress not as an individual entity, but as legislative members assembled together in a meeting of the States.

Article I, Section 2, Clause 3, for example, includes the details that:

> "The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States…in such Manner as they shall by Law direct."

Using “they” in the clause as the pronoun referring back to Congress helps to show Congress as a meeting together of legislative members “representing” their constituent States in a meeting of all the States, rather than an individual entity of its own accord.

In **Article I, Section 4, Clause 2**, the Constitution similarly directs that:

> "The Congress shall assemble…on the first Monday in December, unless they shall by Law appoint a different Day."

Article I, Section 7, Clause 2 indicates that if the President does not return a bill within ten days, that the same shall be a law:

"unless the Congress, by their Adjournment prevent its Return."

Article II, Section 2, Clause 2 provides that:

"Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

Article II, Section 3 includes the detail that the President shall:

"give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient."

All these examples of uses of plural pronouns when referencing Congress reinforce Congress as a meeting of the States, rather than as an entity of its own power and volition. Thinking in terms of "(members of) Congress *are*…" rather than "Congress *is*…" helps reinforce such concept.

On January 3, 2012, the second Session of *112th Congress* began; that the Congresses are sequentially numbered helps identify Congress as but meetings together of the delegates of the United States.

The Constitution does use terminology once which could point to a singular concept of Congress, in Article I, Section 1 when it states that all legislative powers shall be "vested in a Congress of the United States of America". It is therefore not necessarily improper to use this singular concept of a Congress (provided one understands it literally to mean "a *meeting* of the United States of America").

Part of the difficulty in grasping the proper understanding of the relationship of Congress and the States stems from the pervasive misunderstanding of the phrase "the United States" itself.

This phrase "United States", as used in the Constitution, is also a plural term, as in "these United States *are*…" rather than a singular term, as in "the United States *is*…"

This concept, regarding the United States, is actually of great significance and fundamental importance, for it strikes at the very heart of government acting with apparent disregard for the Constitution. To understand how government appears to expand powers beyond the Constitution, it is *imperative* to first understand the concept of the United States as a plural term.

The United States as a plural concept is much easier to understand if one thinks "the united States" — *without* the "u" in "United" capitalized (to hold it as an adjective modifying the noun, rather than as a proper noun). It was in such form that the **Declaration of Independence** was actually styled:

"The unanimous Declaration of the thirteen united States of America."

IN CONGRESS, JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America,

Not only did the Declaration of Independence (which was signed by the convention delegates 11 years *before* the convention delegates completed the proposed Constitution) discuss the concept of many United States; so too did the **11th Amendment** (ratified six years *after* the States first met under the Constitution), which reads (underscore added):

> "The judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

The 11th Amendment to the Constitution, ratified in 1795, is that Amendment which stands squarely at odds with the concept that the Constitution is whatever the majority of the supreme Court declare it.* The 11th Amendment clearly acknowledges the concept of a plurality of United States, when its refers to "one of the United States" (when referencing any particular State).

> * The 11th Amendment overturned the supreme Court's ruling on the jurisdictional limitations of Article III, Section 2, in the case of *Chisholm v. Georgia*, 2 U.S. 419 (1793). Thus, it is evident that the States collectively hold the *final authority* on the ultimate meaning of the Constitution (and not the supreme Court).

The idea that "these United States *are*..."; that the United States represent a plurality, is perhaps confusing, but is of critical and essential importance. *Every* instance where the Constitution indicates word form for the phrase "the United States" indicates it a plural term.

For instance, **Article I, Section 9, Clause 8** reads (underscore added, throughout):

> "No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State."

The plural pronoun "them" in the clause refers back to "the United States", to the States united under the Constitution (the States in their separate, individual capacities were prevented from granting titles of nobility in Article I, Section 10, Clause 1, so the first passage was not referring to the several States in their individual capacities).

Article III, Section 2, Clause 1 declares, in part:

> "The judicial Power shall extend to…the Laws of the United States, and Treaties made, or which shall be made, under their authority."

Since individual States are specifically prevented from entering treaties (again, by Article I, Section 10, Clause 1), this reference to "their" cannot possibly refer to the States in their separate capacities.

The **13th Amendment** shows the plural nature of the term even more clearly:

> "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Article III, Section 3, Clause 1 provides the simplest, most direct example of the United States as a plural term, of the States united together. It reads, in part:

> "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort."

The "United States" is a plural term, as clearly signified by the use of the plural pronoun "them" and the possessive plural pronoun "their" in every instance within the Constitution where word form was indicated. The use of plural pronouns helps show the collective meaning of the United States to mean the States united together, rather than a singular entity of its own volition.

It should be noted that the Constitution does use the singular personal pronoun "it" when it refers back to a singular entity. In each of three instances in Article I, Section 5, Clauses 1-3 where the Constitution references "each House", for example, the Constitution uses the singular possessive personal pronoun "its" to refer to "its" members and "its" proceedings.

Also, in **Article I, Section 10, Clause 2**, the Constitution declares, in part, that:

> "No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws."*

Article V further declares that:

> "no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate."*

> * The Constitution has a few scrivener's errors, including here using "it's" with an apostrophe (as was rather common in that day) rather than simply "its" without the apostrophe. An apostrophe is only properly used in this instance as a contraction for "it has" or "it is": the word "its" shows possession without the use of an apostrophe.

These examples show that personal pronouns were used properly; "its" was used in the possessive case of a singular entity (the individual States and each House of Congress), and "they", "them" and "their" were used in the plural and possessive cases when referring to Congress and the States united together.

Today, there are 50 States united together under the Constitution to promote their common defense and general welfare. The States send their duly-elected delegates, their U.S. Senators and U.S. Representatives, to meet together in a Congress of all the States (congregate together in a meeting of all the States) and enact laws of mutual benefit under the powers the States delegated by the Constitution to the United States.

Viewed in this manner, the idea that the federal government can act in defiance to the States and dictate to them loses traction. Without the States, there are no United States.

When the States meet together in a Congress, they have their rule book which is the U.S. Constitution to abide by, which is a collection of the powers that the States individually ceded over to the States acting collectively together.

Looking at the Constitution, one will find that Article I, the article covering the legislative branch, takes up over half of all the words of the originally-ratified Constitution. In contrast, Article II and the executive branch has less than one-fourth the words, while Article III and the judicial branch has less than one-tenth (with Articles IV – VII taking up the remainder, [discussing the States, amendment process, debts, oaths, ratification process, etc.]).

That the framers spent so much time on the legislative branch shows they clearly understood the power of republican government to be centered there.

James Madison's comment in ***The Federalist* #51*** sums up the principle well:

> "In republican government, the legislative authority necessarily predominates."

> **The Federalist* was a series of newspaper articles written anonymously by Alexander Hamilton, James Madison, and John Jay under the pseudonym "Publius", urging ratification of the Constitution as it was before the States for ratification.

Article I, Section 7, Clause 2 of the Constitution details the process by which every legislative bill must pass "before it become a Law". It reads, in the pertinent portion "Every Bill which shall have passed the House and Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States…" and goes through a number of scenarios, depending upon whether or not the President (timely) signs the bill.

Clause 2 continues with the process of enacting a bill overriding the President's veto, and it also covers the process to be followed if the President fails to act on the bill. This latter process is important, for it clearly declares the status of such a bill when it doesn't get the proper attention from the President it requires but Congress adjourns, stating "in which Case it shall not be a Law".

"In which Case it shall not be a Law" is a very powerful phrase and very powerful principle. "It shall not be a Law"; *even a bill properly passed (thus far) by <u>both</u> Houses of Congress fails to "be a Law" if it doesn't ultimately complete the proper process within the allowable time restraints* (and Congress adjourns). Obviously, the Constitution is very strict on what shall be a law and what shall not be a law.

The legislative power in the United States is the power to enact law by one's own elected representatives (here "representatives" also meaning Senators).

Article I, Section 32 of the **Washington State Constitution** (look to one's own State Constitution for similar words which may be found there) details, in wisdom seldom seen today, that:

> "A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government".

“Individual right” is a familiar concept to most Americans, but the term “free government” is not. People thankfully yet talk today of “freedom”, or of a “free people”, but unfortunately seldom (or ever) of “free government”.

“Free government” — often referred to as “self-government” — is a government of one’s own accord; crafted and upheld by the people themselves through their elected representatives who act in their stead. Legislative representation is the absolutely-critical component in “free government” (and without the first, one cannot have the latter); legislative representation stands opposed to and counters tyranny in the executive.

This republican form of free and representative government is guaranteed to every State of the union — no State in the Union is denied this fundamental principle upon which our revolt against executive tyranny proudly stood *and yet still stands*.

Given that the Constitution specifically vests (permanently affixes) Congress with enumerated legislative powers (subject to amendment) and given that members of Congress have no ability to change the Constitution, then it necessarily follows that it is outside Congress' discretion to delegate constitutional legislative power to others, specifically including the executive or the executive branch’s departments.

The Constitution treats the legislative branch of government fundamentally different from the executive (and judicial) branch(es). The executive and judicial branches of government are structurally different from the legislative branch and are NOT interchangeable. One branch cannot exercise the type of authority of another (without specific constitutional authority to do so, such as the President’s enumerated power to sign or veto proposed legislation, recommend measures he thinks expedient, or the Senate’s role as a court of impeachment, etc.).

One must realize that the legislative branch of the United States is directly related to the *State* governments; Congress is a meeting together of the State delegates of the member-States (foreign ambassadors of each State, if you will). Members of Congress are elected to represent their individual States in the meeting together of all the States, and enact law for the good of the whole, under the constitutional guidebook.

The executive and judicial branches, in stark contrast, have no direct tie to the several States, but contain offices (and officers) of the United States, and make up the government of the United States.

People who work in the executive and judicial branches are government officers holding government offices, and have no part in creating law (other than to the degree the President approves or vetoes proposed legislative bills, recommends measures, etc., as he is specifically and constitutionally-empowered).

The executive and judicial branches of the U. S. government consist of and make up the governmental body proper, whereas the legislative branch stands wholly apart from it. Executive and judicial officers stand wholly apart from legislative members.

The Constitution acknowledges that persons in the executive branch (are *officers* who) hold *offices*.

Article II, Section 1, Clause 1 provides that (underscore added, throughout):

> "The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years..."

Article II, Section 1, Clause 5 details the qualifications for the "Office of President".

Article II, Section 1, Clause 6 provides the sequence for presidential succession, in case of "the Removal of the President from Office" or of his "Inability to discharge the Powers and Duties of the said Office".

Article II, Section 1, Clause 8 mandates the President take the following oath or affirmation "*before* he enter on the Execution of his Office":

> "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Article I, Section 3, Clause 5 acknowledges that the Vice-President will, in succession of the President, "exercise the Office of President of the United States".

Article II, Section 2, Clause 1 recognizes that executive workers are officers holding Offices:

> "The President…may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices..."

Judges also hold offices. **Article III, Section 1** provides that "The Judges…shall hold their Offices during good Behavior". Section 1 also details that:

> "The Judges…shall…receive…a Compensation, which shall not be diminished during their Continuance in Office."

In stark opposition, the legislative branch of government has legislative *members* who hold legislative *seats*.

It is crucial to understand that legislative members are NOT officers and that legislative seats are NOT offices. Legislative members do not form a part of the government itself, per se, but represent the States in crafting pertinent law (for the executive to execute and for the judicial branch to adjudicate cases and controversies brought before it, according to law).

The difference between legislative members and executive or judicial officers is of absolutely fundamental difference and no one interested in liberty can afford to underestimate or overlook this clear distinction or its vast importance.

Article I, Section 2, Clause 1 acknowledges that (underscore added throughout):

> "The House of Representatives shall be composed of Members..."

What more does one need to know on this subject than these crystal clear words of the Constitution? The House of Representatives is composed of "Members", period.

Other clauses immediately below show that this term "Members" extends also to Senators.

Article I, Section 5, Clause 1 declares that:

> "Each House shall be the Judge…of its own Members, and…may be authorized to compel the Attendance of absent Members..."

Article I, Section 5, Clause 2 states:

> "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member."

Article I, Section 5, Clause 3 states:

> "Each House shall keep a Journal of its Proceedings…and the Yeas and Nays of the Members…shall…be entered on the Journal."

Article II, Section 1, Clause 3 directs that should the electoral system fail to elect a President, then the choice shall go to the House of Representatives, a quorum of which shall consist of a:

> "Member or Members from two thirds of the States..."

Article VI, Clause 3 requires oaths or affirmations to support the Constitution before legislative members take their seats or executive or judicial officers enter on the execution of their offices. Clause 3 states, in part:

> "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution."

Article VI, Clause 3 accurately separates members from officers while requiring the legislative members (of both the States and the United States) and the executive and judicial officers (both of the States and the United States) to be bound by oath or affirmation to support the Constitution.

Article I, Section 3, Clause 2 acknowledges that Senators hold legislative seats rather than offices, stating, in part, that:

> "The Seats of the Senators of the first Class shall be vacated at the Expiration of the second year..."

There only seem to be a relative handful of Americans (excluding many learned and knowledgeable persons who should know better) today who do not understand that Senators and Representatives are members holding seats, rather than officers who hold offices. To prove all these people flatly and squarely wrong, however, one need only look to **Article I, Section 6, Clause 2**, which contains the following definitive prohibition:

> "No Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

A republican form of government mandates this powerful clause which creates an impenetrable brick wall between the legislative branch and the executive & judicial branches.

Article I, Section 6, Clause 2 precludes any person who holds any office under the United States from being a member of either House during his continuance in office. Since no officer of the United States is or can be a member of Congress, then the reciprocal thus holds true, no legislative member can concurrently hold any office of or under the United States.

Due to the second Clause of the sixth Section of the first Article, no congressional legislative member can ever (concurrently) be an officer who holds any office of the United States. No member is thus ever an officer and no officer is thus ever a member, period.

A republican form of American self-government under the Constitution means having duly-elected legislative members of the States meet together with their colleagues from other States and enact laws within their powers. One can see that the Constitution forbids any (executive or judicial) officer of the United States from exercising any legislative authority. Their very essence of being an officer precludes them from having any legislative power whatsoever to enact law.

Executive officers execute or put into effect (administer) laws enacted by Congress while judicial officers rule on disagreements or issues brought before them, according to law.

The idea that members of Congress could perhaps be considered officers in some sense of the word came up when Thomas Jefferson was Vice President of the United States under President John Adams. This mattered in the pertinent case as to whether a member of Congress could be impeached in accordance with **Article II, Section 4**, which states that:

> "The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

In looking into the impeachment power, it is important to first realize that **Article I, Section 5, Clause 2** provides:

> "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

Obviously, if a Senator could be impeached by the House of Representatives, then a body besides the Senate could punish the Senate's members for “disorderly Behaviour”. Of importance in this case was whether or not each House determines its own order. In a broader sense, either the clauses in the Constitution have meaning, or they don't.

In the relevant case, Jefferson, as Vice President of the United States, served as President of the Senate during the impeachment trial of Senator William Blount. Senator Blount was expelled by the Senate and was also impeached by the House of Representatives (once an officer is impeached by the House, the trial goes to the Senate according to the commands of Article I, Section 3).

The question as to whether the House of Representatives had authority to impeach a Senator was brought up immediately and even before impeachment. It was decided in the House

that the question as to whether or not they had power to impeach a Senator could only be "ripe" for consideration if there were sufficient votes to impeach one (if there were insufficient votes to impeach, then it wouldn't then matter if they had the authority).

Thus, the House only really voted on whether or not Senator Blount deserved impeachment (and that vote succeeded). Argument thus went to the Senate to try the impeachment. The case immediately turned on whether a Senator could be impeached.

Senator Blount's only defense was that:

> "a Senator is not an officer of the United States; and that no persons but the President, Vice President and civil officers are liable, by the Constitution, to impeachment".
>
> Volume 8, Annals of Congress, Senate, Page 2245. See also *The Beacon of Liberty*, Vol. I, Issue 10 at www.FoundationForLiberty.org

The House Manager (James Bayard) prosecuting the impeachment trial admitted his daunting challenge but nevertheless centered his creative argument thusly:

> "Now, it is clear that…a Senator is not an officer under the government of the United States, but still he may be an officer of the United States."
>
> *Ibid*., Page 2251

The Senate, sitting under oath as a court of impeachment, ruled against this argument and against impeachment, holding that members of Congress are neither officers "under" the government of the United States nor officers "of " the United States.

This matter, as to whether Senators and Representatives are officers, is of great and absolutely fundamental importance, for if legislative members could be thought of as officers in some sense of the word, then it would be far less of a stretch to think that (executive) officers could act somewhat equally as legislative members and thus that officers could therefore enact law or that held as law.

That Senators and Representatives are not officers and that no officer may enact legislation precludes the creation of "administrative law", which therefore prohibits regulations crafted by the executive agency from impacting the public at large.

Our forefathers rebelled against such erection of new colonial offices, with the swarms of new government officers which harassed our people and ate out their substance and held anything coming from the executive branch which bypassed one's duly-elected representatives as usurpations pursuing an evil design to reduce them under absolute despotism and tyranny.

Remember that there are far fewer words in the Constitution covering the executive branch as compared with the legislative, so if the executive branch could somehow enact law or that held as law even without an express grant of authority, then the lack of express powers while conceding powers to enact that held as law could be twisted thusly toward omnipotence (power acknowledged but not defined means the person exercising the power gets to determine the extent). With fewer limitations, it could be made more powerful than the legislative branch, under the false premise that the executive would have all authority except what is expressly forbidden.

That the executive and judicial branches command such power today is in large part because the Constitution details them so little (because it actually gave them such little real power). By ignoring the purpose of government (to secure man's unalienable rights), instead concentrating on the means of government (power), the branches originally intending to be of less-importance have become all-powerful.

By ignoring the structure of American government and allowing the executive department to craft dictates under which every American must live, Americans throughout the States have once again been subjected to an executive tyranny, one still unsupported today by our Constitution.

Americans interested in limited government must never make the mistake of calling a legislative member an officer, or a legislative seat an office (the only officers of the Senate and House are the Speaker of the House, President of the Senate, etc. [House and Senate legislative officers are not synonymous with executive or judicial officers {they merely maintain House order, etc.}]).

A republican form of government is guaranteed to every State of the Union. A republican form of government is representative government, a government where only duly-elected legislative representatives enact laws within their powers.

Americans interested in limited government must realize that the Congress must make *all* laws under the Constitution. Anything held as law coming from the executive branch (other than reprieves and pardons, etc. [which are specifically authorized under the Constitution {see Art. II:2:1}]) must be held as suspect and critically analyzed to find out what is truly being authorized and what is improperly being held as assumption.

King George III sought to force the American colonists to "relinquish the right of Representation in the Legislature", a right they held "inestimable". The American colonists rebelled against such tyranny and held it as their right and their duty to throw off such arbitrary government and to provide new guards for their future security.

Today, Americans are being told they have to abide by mountains of administrative "law" "enacted" by executive agencies being run by appointed bureaucrats who were never elected to represent any constituent.

That executive agencies seek to bypass legislative action completely and "enact" administrative "law" is decidedly <u>not</u> a republican form of government. The Constitution declares that even proposed bills passed by *both* Houses of Congress "shall not be a Law" if that bill fails to complete the full enactment process within proper time constraints (before Congress adjourns); clearly, that which completely bypasses Congress can never "be a Law" in these United States of America.

Neither in a republican form of government is it legitimate to have a process in which a "rough outline" is enacted by Congress; to then have the administrative agencies fill in all the pertinent regulations by which every citizen must then live (for then power which is only properly and permanently vested in Congress is yet effectively delegated to unelected bureaucrats

who do not answer to the people [remember, a “Republican Form of Government” is <u>guaranteed</u> to every State in this Union]).

Today, we hear of administrative “czars” running entire economies with billions of dollars involved without oversight, making unilateral decisions which will impact nationwide commerce for generations to come.

Are we truly living under the American equivalent of czarist Russia?

May the United States grant such power to an appointed official?

Given the extensive regulation of business and the economy today by the “alphabet agencies” and “independent establishments” of the federal government (EPA, FTC, SEC, etc.), perhaps it is reasonable for Americans today to question the seemingly radical proposition that only Congress may enact laws which affect every American.

The Constitution thankfully provides even further clarification for those persons who doubt their own ability to understand its clear words.

Article I, Section 8, Clause 18 provides that:

> “The Congress shall have Power...To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

Recall that Article II, Section 1 of the Constitution specifically invested the President of the United States with the *executive* power, the power to execute the laws enacted by Congress. As such, maybe it would seem ok for the principle officer in each of the executive departments and President to have discretion to create laws for the execution of the duties of the inferior officers.

Clause 18, however, specifically directs otherwise. The Constitution vests the authority with Congress to make “all laws” for “carrying into execution” not only the Article I powers of Congress earlier enumerated in Section 8 (Clauses 1 – 17), but “<u>all other Powers</u> vested by this Constitution in the Government of the United States, or in any Department or <u>Officer</u> thereof.”

Since “officers” only have to do with the executive or judicial departments, clearly the Constitution is not here limiting the legislative branch.

This clause shows that neither the President, nor any of the executive departments (let alone the government’s “Independent Establishments”), are empowered to enact *anything* held to be law.

As members of Congress are to enact “<u>all</u> Laws” which are “necessary and proper” for “carrying into Execution” the powers detailed within the Constitution for the “Government of the United States” as well as for any “Department” or even for any individual “Officer” thereof, Clause 18 doesn’t even allow the executive departments to make any laws for the execution of powers for even one of its individual officers thereof, let alone a whole department and certainly not anything that could reach to private individuals.

Indeed, any law attempted to be created and enacted within or by the executive department, even for merely executing one of the laws of Congress, would not only be "un-necessary", but also "im-proper".

Clause 18 directs that Congress shall make all laws for the execution of all powers for the entire government of the United States, as well as each and every executive department and each and every one of their officers.

Seen in this light, Clause 18 (one of the clauses of the Constitution often quoted for support of omnipotent legislative authority) actually serves as a powerful keystone expressly limiting <u>executive</u> power, rather than authorizing enactment of most any legislative law by Congress as many suggest.

The Constitution has yet further protections should Congress attempt to pass a law in excess of their powers.

It should be noted that Congress may not enact any law they see fit, but only laws within their authority (which are both "necessary" and "proper"). Should they enact a "law" in excess of their authority, the Constitution acknowledges that such a "law" would not carry the authority of government.

The Constitution declares clearly what shall be the supreme law of the Land in **Article VI. Clause 2** declares:

> "This Constitution, and the Laws of the United States of America which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States shall be the supreme Law of the Land..."

It is significant that the Constitution reads not that all the Laws of the United States are the supreme Law of the Land, but only laws "made in the Pursuance" of the Constitution shall serve as the supreme Law.

Many people today argue that a "law" which is actually invalid due to it being unconstitutional rests (solely) upon the supreme Court to so declare it. The courts do not have any specific authority or express ability to over-ride proper legislative authority, of course, but they do have authority to judge according to law the various cases and controversies brought before them.

Thus, if a "law" supposedly enacted by Congress is actually invalid because it contravenes the Constitution, judges must declare it void or they must hold it to mean something in such a way as it doesn't actually contravene the Constitution (i.e., to limit its meaning in such a way as to avoid violating the Constitution) . This power to uphold the Constitution and deny all that contradicts the Constitution is not a special prerogative of the courts, however.

Article VI, Clause 3 requires every legislative member and every government officer (federal, State, or local) to become "bound by Oath or Affirmation, to support this Constitution", reading, in part:

> "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of

the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution".

One can see that *every* government official — both of the United States and the several States — and *every* legislative member — both of the United States and the several States — is bound by oath or affirmation to support the Constitution. If any specific government employee hasn't personally given such an oath or affirmation, they are under the command of a superior officer who has.

Judges therefore do not then have a special obligation to support the Constitution against unconstitutional acts "enacted" by Congress — every State and federal official and every State legislator and every member of Congress have the explicit and express duty and individual obligation to support the Constitution, and therefore to hold any legislative "act" (and every executive or judicial action) which contravenes the Constitution as unconstitutional.

Oaths put an individual duty on each and every person holding any government authority to uphold the Constitution and nullify or fail to execute any "law" enacted contrary to the Constitution, even if every other member or officer failed to uphold their own oaths.

Few additional laws need be enacted to cure our nation's ills — most all the laws we need are already enacted (there is just a whole lot masquerading as law in these United States of America that needs to be brushed aside).

Monetary Laws has been written to show how "laws" masquerading as Laws have been pulled off, with regards to a single power of Congress (the power "To coin Money"). This level of inspection into any other of the powers of Congress would be equally appropriate (and will likewise bring to the clarifying light of day similar methods of deception and subterfuge).

Legislative members cannot enact any law which supersedes their authority under the Constitution. Officers cannot exercise any lawful governmental power which contradicts the supreme law. Those officers who violate law have no shield of government immunity (which only extends to allowable acts) and are thus answerable as any individual who violates law.

Thus, it matters little who is in office or who holds which legislative seat when government is properly limited, for every person in such a position of power is powerless to expand beyond the Constitution (except by deception over people who do not comprehend the mechanism of deception).

Our forefathers did not pledge their lives, their fortunes, or their sacred honor in their fight for liberty only to then create a system of government whereby one was held hostage at every election cycle or every legislative session.

These truths and our fundamental laws are our forefather's gift of liberty to us, which we have seen slip though our fingers though our indifference, our ignorance, and our ineptitude.

It is up to us Americans currently living to learn how to regain our freedom, which is right in front of us and is our birthright.

Those who use confusion and deceit to gain power do not want people to understand how government acts with apparent disregard to the constitutional limitations of government power.

People who use government as a sword to obtain what they cannot get on the free market want Americans to think that the Constitution is a dead letter and of little meaning; that there is thus little reason to study the Constitution.

That proponents of expanded government want their opponents to think in such a fashion then provides these persons interested in liberty with a necessary roadmap of what needs to be done — to learn as much as possible about the U.S. Constitution and limited government, as soon as possible.

Our answer today to swarms of administrative officers in a multitude of government offices harassing our people and eating out our substance should be the same as that given by our forefathers — we Americans today must continue to fight against such tyranny with our lives, our fortunes, and our sacred honor.

One must realize that our forefathers successfully fought the war for our independence. The Declaration of Independence was purchased by the brave men who first fought on this American soil for liberty. Limited government took firm root in these United States of America.

Thankfully, the only war that therefore needs to be fought today is of the mind. This war is not fought with bullets (in which the decided advantage must go to organized government with its awe-inspiring command of force) but with principles, ideas & concepts.

Never before has it been so simple and affordable to disseminate the powerful principles of freedom. Words of liberty can spread across the globe today at the speed of light. When liberty is awakened within a slumbering nation, watch for unexpected events.

As the fierce grip of expansive government closes ever more tightly on increasingly-overwrought citizens, do not be surprised when people who appear about to be crushed begin slipping through the giant's fingertips.

Never before has central government operating beyond its rightful authority faced such a powerful decentralizing force as the internet.

In a battle of ideas, do not bet against millions of self-interested citizens awakening from the slumber of their once-safe routines. As various economic, social and political events force people to begin to scrutinize their increasingly-uneasy situations, they may well develop a thirst for searing truth and burning justice.

The more people struggle, the more their worsening condition commands increasing amounts of their attention.

People struggling in worsening conditions are often quite receptive in their search for answers. They will likely be so quick to find answers that the danger is that they may grasp at half-baked, popular notions based upon conjecture, false assumptions and speculation.

The need for strong reasoning, rational thought, sound discourse, and careful study is most critical when one is at major crossroads, when the wrong path can lead to impending doom.

The hour is late and the sky is darkening. Many of our fellow citizens are already standing in a long line to see the all-powerful wizard in the Emerald City of the East.

This wizard obtains his strength not only by bellowing thunderous, hot air in a forbidding manner with a spectacular sound and light show, but from the long line of people who come before him seeking his favor.

Our job is that of a small dog, to sniff out things that smell "funny", to investigate thoroughly all claims of government omnipotence, and to look in every nook and cranny to find the proper curtain to pull back to shine the bright light of truth on the matter and thereby expose the wizard of seemingly unlimited powers as the fraud he is.

Government operating in excess of the Constitution loses all credibility when the curtain is pulled back, exposing the dark recesses of treachery to the light of day.

Those being duped into believing the wizard had almighty powers will not again be deceived once the source of his powerless magic has been revealed.

America can once again be the bright Beacon of Liberty in a world of darkness and despair, and not a part of it.

Chapter 2: Money Raised to Fund the Revolutionary War

It is difficult to begin our study of money with the government of the United States which first began to assemble under the Constitution on March 4, 1789, partly because there was such little money then in circulation and partly because Congress had to take into account the previous state of monetary affairs to get from where they were then to where they wanted to be in the future.

One must realize that the British Crown's colonial policy had been for enriching the motherland through mercantilism. The policy of the king and parliament dictated that the colonies pay their taxes and for their wares purchased from the homeland in gold and silver, but that the colonists be paid for their commodities with paper. American trade with other nations was obstructed (to benefit only the motherland), so inflow of gold and silver into the colonies was scarce, while any of it finding its way into the colonies was continuously transferred across the Atlantic.

To make matters worse, after the colonies' declaration of their independence, the newly-formed States soon became deeply indebted due to war. After the war ended, their debts loomed over them well before they were united under the Constitution.

Before continuing toward discussion on the constitutional principles of money, it will prove helpful to study the era before the Constitution, so Americans today can understand the situation which confronted the framers who crafted and ratified the monetary powers allowed the new government.

The First Continental Congress met in October of 1765 in New York and published their Declaration of Rights and Grievances, which were a list of inviolable rights being violated.

The Second Continental Congress first convened in Philadelphia in 1774 to discuss the colonists' growing disillusionment with the British king and parliament.

The credentials given by the colonial assemblies to their delegates to meet together in the Second Continental Congress outlined the purposes for which the delegates met and varied slightly according to each colony's charge.

New Hampshire, for example, charged her delegates with the authority to:

> "Consent and Agree to all Measures, which said Congress shall deem necessary to Obtain redress of American Grievances."
>
> Volume 2, Journals of the Continental Congress, Page 13

Massachusetts directed her delegates to:

> "Direct and order such farther measures, as shall to them appear to be best calculated for the recovery and establishment of American rights and Liberties, and for restoring harmony between Great-Britain and the Colonies."
>
> Volume 2, Journals of the Continental Congress, Page 14

Connecticut instructed her delegates:

"To join, consult and advise with the Delegates of the other Colonies in British America, on proper Measures for advancing the best Good of the Colonies."

Volume 2, Journals of the Continental Congress, Page 15

The States continued to meet under the Second Continental Congress during the bulk of the Revolutionary War with no more formal of a structure than the individual State's credentials for their delegates (though they later tended to follow the outline of the Articles of Confederation and Perpetual Union which were first proposed in 1777 but which didn't formally become operational until four years later).

In 1781, Maryland became the last of the 13 original States to ratify the Articles of Confederation, which then became operational. The Paris Peace Treaty, signed in 1783, successfully concluded the war with Great Britain.

Since the U. S. Constitution was not even proposed until 1787 — four years *after* the successful conclusion of the Revolutionary War — it is obvious then that the Second Continental Congress and the Congress operating under the Articles of Confederation were able to muster sufficient military might to liberate the United States from the pre-eminent world power.

Ratifying the Constitution then had nothing to do with *securing* independence, for independence was by then well-established. But just because the war was over didn't mean that the war debts were being punctually paid, however.

A number of States were relatively strong financially and were working consistently to pay their proportional quota of the monthly payment owed on their cumulative war debts (of $15 million) as was assigned them by a resolve of the Confederation Congress of October 7, 1779 (15 Journals 1150). Others, however, were less consistent in payment of their proportionate debts. The primary obstacle yet confronting the young States after the war was continued financial instability of the union.

Shay's Rebellion, a revolt in Massachusetts lead by Daniel Shay to prevent farm foreclosures for non-payment of personal debts brought about by the war's resultant economic turmoil, opened many patriot's eyes to the fine line which separated the young States from perhaps anarchy and of how ineffectual the confederation government had been in helping quell a minor groundswell against civil processes.

The single-most important purpose for establishing the Constitution (over the Articles of Confederation) was then to institute a government capable of punctually servicing the war debt and providing for minimal needs of the common government (or, in the words of the Congressional resolve for which the constitutional convention was called, to "render the federal Constitution adequate to the exigencies of Government and the preservation of the Union").*

*On Wednesday, **February 21, 1787**, the Congress of the Confederation issued the following resolution:

"*Resolved* That in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several States be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and

the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the federal Constitution adequate to the exigencies of Government and the preservation of the Union."

Volume 32, Journals of the Continental Congress, Page 72

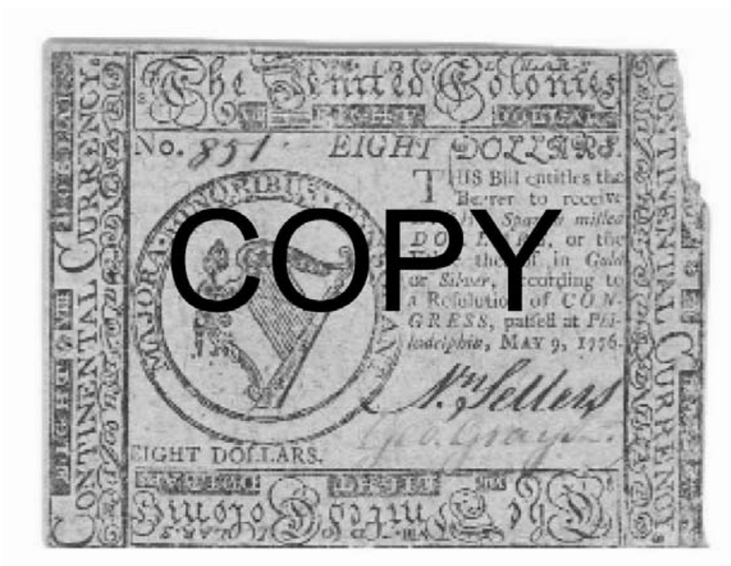
The Second Continental Congress fighting the war had such a minuscule amount of formality initially that official loans were then rather out of question. The former colonies collectively were also without formal (collective) means to raise revenue for common purposes as would later be supplied under the Constitution by taxes, duties, imposts and excises (each State had authority to levy their own State taxes, of course, but not collectively for the union), nor did they collectively have the effective ability to borrow money in an ordinary manner.

Bills of Credit

On June 22, 1775, the Second Continental Congress raised their first sums of money to help fund the war effort through the emission of bills of credit.

Bills of credit are bills, or written documents, which are bearer-instruments (payable to "bearer" or the person holding the bill) and "redeemable" or will be paid at some future point in hard money (at least in theory).

These I.O.U.'s reflect an often-indeterminate future promise for redemption in items of real or inherent value. As shown below by an eight dollar note issued by the United Colonies under authority of a May 9, 1776 resolution, the Continental Currency promised to the bearer, redemption of the bills for "Spanish milled dollars" (to the amount of the denomination of the note), "or the value thereof in Gold or Silver".



It was not until this fifth emission of bills of credit, on May 9, 1776, that any mention whatsoever was made in the Congress as to the period of time when the said Continental Currency would be redeemable in gold or silver.

The **May 9, 1776 resolution** simply and vaguely stated:

"That the thirteen United Colonies be pledged for the redemption of the said five millions of dollars, at such periods, and in such manner and proportions as Congress shall hereafter direct and appoint".

Volume 4, Journals of the Continental Congress, Pages 339 and 340

"At such periods" and "in such manner and proportions" as Congress shall "hereafter direct and appoint" would not exactly inspire holders of the currency to any great confidence (for redemption of proper value any time soon).

The chart below lists the resolution dates, authority citations and amounts of Continental Currency authorized to be emitted by the Second Continental Congress (a minor amount of *new tenor* bills were also emitted in 1780 [see March 18, 1780 Resolution {16 Journals 264 – 267}]).

Statement of Emissions of Continental Currency			
	Journals of the Continental Congress		Amount of Currency Authorized
Date	Volume #	Page #	
June 22, 1775	2	103	$2,000,000.00
July 25, 1775	2	207	$1,000,000.00
November 29, 1775	3	390	$3,000,000.00
February 17, 1776	4	157	$4,000,000.00
May 9, 1776	4	339	$5,000,000.00
July 22 & August 13, 1776	5	599, 651	$5,000,000.00
November 2 & December 28, 1776	6	918, 1047	$5,000,000.00
February 26, 1777	7	161	$5,000,000.00
May 20, 1777	7	373	$5,000,000.00
August 15, 1777	8	646	$1,000,000.00
November 7, 1777	9	873	$1,000,000.00
December 3, 1777	9	993	$1,000,000.00
January 8, 1778	10	28	$1,000,000.00
January 22, 1778	10	82	$2,000,000.00
February 16, 1778	10	174	$2,000,000.00
March 5, 1778	10	223	$2,000,000.00
April 4, 1778	10	309	$1,000,000.00
April 11, 1778	10	337	$5,000,000.00
April 18, 1778	10	365	$500,000.00
May 22, 1778	11	524	$5,000,000.00
June 20, 1778	11	627	$5,000,000.00
July 30,1778	11	731	$5,000,000.00
September 5, 1778	12	884	$5,000,000.00

September 26, 1778	12	962	$10,000,100.00
November 4, 1778	12	1100	$10,000,100.00
December 14, 1778	12	1218	$10,000,100.00
January 14 & May 7, 1779	13/14	64/ 557	$50,000,400.00
February 3, 1779	13	139	$5,000,160.00
February 19, 1779	13	209	$5,000,160.00
April 1, 1779	13	408	$5,000,160.00
May 5, 1779	14	548	$10,000,100.00
June 4, 1779	14	687	$10,000,100.00
July 17, 1779	14	848	$5,000,180.00
July 17, 1779	14	848	$10,000,100.00
September 17, 1779	15	1076	$5,000,180.00
September 17, 1779	15	1076	$10,000,080.00
October 14, 1779	15	1171	$5,000,180.00
November 17, 1779	15	1285	$5,000,040.00
November 17, 1779	15	1285	$5,050,500.00
November 29, 1779	15	1324	$10,000,140.00
			$241,552,780.00

Actual*: $231,552,775

*Note: On January 2, 1779, the Continental Congress, due to excessive counterfeiting of certain issues by "our enemies at New York", ordered the emissions of May 20, 1777 ($5 million) and of April 11, 1778 ($5 million) taken out of circulation and destroyed (13 Journals of the Continental Congress, pp. 21, 22).

Out of the $50,000,400 originally authorized to be emitted on January 14, 1779 (see also May 7, 1779), $10 million was for "replacement" of the said recalled emissions and $5 was not ever emitted (see the May 7, 1779 Resolution [14 Journal 553 @557], due to a change in denominations authorized).

Total authorization of emissions of standard bills of credit under the Second Continental Congress therefore amounted to $231,552,775.

Source: House Document # 839 "*Amount of Continental Money Issued during the Revolutionary War…*" 20th Congress, 1st Session, American State Papers, Finance Series, Volume 5, pg 763 @ 764. 1828.

Bills of credit, despite their seemingly-attractive attributes (simply print the amount desired and spend them into circulation) are seldom the security of choice except by penniless administrations and bankrupt regimes. That the bills are supposed to be eventually redeemed for honest money at some point in time, *should* provide *some* restraint, but seldom seem to; lack of adequate financial oversight invariably brings the circulation of such bills to an end after the severe depreciation of their purchasing and redemptive power.

Monetary debasement therefore acts as a hidden tax to confiscate small portions of the assets of citizens in the area where such bills circulate each time more bills are printed. A weakly-established government can thus raise funds in an indirect manner simply with establishment of a printing press (or, as did the Second Continental Congress, contract with a private printer [Hall and Sellers of Philadelphia], to print the currency).

At every moment, then — depending upon the productivity of the printing presses — a small amount of purchasing power is taken from the value of the bills previously printed as newer bills begin to circulate. The intermediate holders and temporary owners of those bills will suffer the depreciation dependent upon the time they hold onto them.

This is not unlike the game of musical chairs where the object of the game is not to be left without a chair when the music stops. In that one does not desire to hold depreciating currency long, it is also like a hot potato, to be received and quickly spent before it is worth less (worthless) tomorrow.

Unlike normal loan documents, bills of credit are not interest-bearing instruments. These bills answered the call of a paper money currency, issued on the (shaky) credit of the United States (these earliest bills of credit were supported in 1775 by the "faith" of the "12 confederated colonies" [Rhode Island then not yet joining in the loose confederation]).

In issuing these first bills of credit, Congress resolved:

> "That a sum not exceeding two millions of Spanish milled dollars* be emitted by the Congress in Bills of Credit, for the defence of America."
>
> Volume 2, Journals of the Continental Congress, Page 103.

*The S*panish milled dollar* was the money of trade used throughout the colonies and much of the world. "Milled" refers to the manufacturing process of raising the edges of the coin to make it more evident should anyone attempt to fraudulently file the coin's edges and yet to attempt to pass off the coin as being of full weight (and then take the filings and re-melt them for plate, bullion or new coin).

The Spanish dollars, also called *Pillar* dollars after the twin pillars (columns) on the coin's obverse, were silver coins which were divisible into eighths ("pieces of eight"); each eighth was referred to formally as a "real" (royal); informally as a "piece" or "bit".

Each of the eight *bits* were therefore equivalent by calculation to 12.5 cents; two bits (two reales) being $.25 (this being the origin of the American quarter-dollar referred to as "two bits").

To make change when none happened to be handy, the coins were often cut in half (and perhaps in half again and again); the "bit" was thus often literal.

The American dollar coin, created by legislative statute in 1792 and finally first coined in 1794, was modeled after the Spanish dollar in size, weight, and purity.

Emitting Continental Currency had been the primary method used by the Continental Congress to raise necessary sums of money for their first three and four years of existence.

So devastating was the ultimate depreciation of the Continental Currency from over-emission, however, many Americans even today have heard the phrase "Not worth a Continental", used when someone is speaking derogatorily of any worthless item.

The extensive monetary debasement, also known as hyper-inflation for its corresponding high prices of goods denominated in paper dollars (because the paper money devalued so greatly, a large deal of it was needed to buy real goods), occurs precisely because the quantity of paper money rises rapidly in contrast to a more stable supply of real goods. Alternatively, prices may also rise when the quantity of money is stable, but real goods are rapidly being consumed or destroyed.

War, unfortunately, often causes prices to rise on both ends of the spectrum; through increases in paper money issuance and destruction of goods, while reduced productive output strains prices even further.

Throughout history, many short-sighted individuals have urged government to print more paper claims, as if the problems of society could be eased by having more monetary claims (rather than in more actual wealth). In every instance for thousands of years, over-emission has resulted in economic destabilization and even devastation, depending upon the degree of over-supply.

It is not more money (more claims to wealth) which is really desired, but more actual wealth (more houses, tools, equipment, articles of enjoyment, etc.). Increasing the claims to wealth without a corresponding increase of real wealth only devalues those claims. Honest money simply provides economic stability while real wealth is produced most productively.

Continental Currency was America's most notorious and widespread example of hyper-inflation, but it was not the first. The Massachusetts Bay Colony issued the first paper money (later referred to as "Old Tenor" notes) in Colonial America in 1690. Though these notes were first accepted at full (par) value, debasement proved progressive.

In the 1730's and again in the 1740's, Massachusetts issued new paper money, later referred to as "Middle Tenor" and "New Tenor" money, respectively. The "Middle Tenor" notes were also referred to as "Three-Fold Tenor" notes, while the "New Tenor" money was also called "Four-Fold Tenor" notes, reflecting the rates which the previous issues were worth in the new issues. These notes at all three rates depreciated due to steady over-emission.

Monetary reform did not succeed in Massachusetts until the two prerequisites for monetary stability occurred — the recall and redemption of (excessive) notes and a significant increase in the availability of coined money. In the 1750's, the British government brought over several tons of Spanish silver coins and British copper pennies to help pay for colonial assistance during the French and Indian War. Redemption of all outstanding notes could then proceed.

Even after the successful re-establishment of stable money, Massachusetts thought she was safe in emitting new small currency notes. As an alcoholic quickly learns even after a period of self-restraint, one more sip invariably leads to another. With inflation quickly reappearing, parliament stopped all further emissions, eliminating the ability of the colonial legislature to emit bills of credit.*

> *The colonists did not appreciate parliament limiting the colony's ability to emit a paper currency (it must be human nature for wanting something for nothing and when prevented by a superior, to complain loudly [even when it is for one's own good]. Parliament's restriction on the colony's emission of currency served as but another nail in the coffin of colonialism [even though the Constitution later provided the same restriction]).

Early on, it was well-known that the issuance of more bills of credit was only a stop-gap. With few tricks up their sleeves, no real money, and no credit, futile legislative attempts were made to support the currency. Congress went so far as to recommend to the State legislatures that they enact oppressive penalties to "prevent such pernicious practices" as the discounting of the bills from their face value.

On **January 11, 1776**, Congress resolved:

> "That if any person shall hereafter be so lost to all virtue and regard for his country as to 'refuse to receive said bills in payment,' or obstruct or discourage the currency or circulation thereof, and shall be duly convicted…such person shall be deemed, published, and treated as an enemy of his country, and be precluded from all trade or intercourse with the inhabitants of the colonies."
>
> Volume 4, Journals of the Continental Congress, Page 49

Calling persons who sought to avoid drastic hits to their wealth unpleasant names did not stop the discounting of the Continental bills of credit.

A year later, Congress again sought to deride those who discounted the bills to their specie value (rather than accept them at their stated value) as the "enemies of American liberty". Going even further, Congress upped the ante considerably, asking the States to enact legislation seeking confiscation of the assets bought and sold with such bills.

Rather than acknowledging that the real "enemies of American liberty" were the British soldiers and Hessian mercenaries, Congress sought to inappropriately punish the very source of their true strength (their own people and internal economic trade).

Congress resolved on January 14, 1777:

> "That all bills of credit, emitted by the authority of Congress, ought to pass current in all payments, trade and dealings, in these States, and be deemed in value equal to the same nominal sum in Spanish milled dollars; and that whosoever shall offer, ask, or receive more in the said bills for any gold or silver coins, bullion, or any other species of money whatsoever, than the nominal sum or amount thereof in Spanish milled dollars, or more, in the said bills, for any lands, houses, goods, or commodities whatsoever, than the same could be purchased at of the same person or persons in gold, or silver, or any other species of money whatsoever; or shall…refuse to sell the same for the said continental bills; every such person ought to be deemed an enemy to the

> liberties of these united States, and to forfeit the value of the money so exchanged, or house, land, or commodity so sold or offered to sale."

Volume 7, Journals of the Continental Congress, Page 33 @ 35-36

That the Continental Congress had no authority to dictate the true value of the currency was acknowledged in the resolution — that "all bills of credit…*ought* to pass current in all payments" (at 100% of their stated value).

Bills of credit will be discussed further under Chapter 4.

Lotteries

The issuance of Continental Currency met brusquely a financial need — value was thus indirectly "borrowed" from the community-at-large that could be then spent on the war effort. Payment was incrementally extracted from each hand through which the currency had passed.

Other methods to raise government funds were sought — voluntary methods were closely inspected. Lotteries had proven themselves relatively successful by the colonies, with Massachusetts again first paving the way (in the 1740's). Rhode Island perhaps proved most adept at such practices, with numerous lotteries in this period. The Continental Congress authorized a "scheme of the lottery" on November 18, 1776 (Volume 6, Journals of the Continental Congress, Page 957 @ 959 – 961).

The Continental Lottery improved upon the colonial scheme in theory, being that it was for larger prizes, national in scope, and progressive in nature. The lottery could be played in four consecutive plays, with the early winners able to let their winnings ride and with at least 20% of the sales carried forward to the next drawing for growing prizes.

100,000 tickets were available to be sold, each ticket being divided into four billets. In the first drawing, each (billet) ticket cost $10. Prizes were as follows:

1776 Lottery		
First Class, at $10 each billet		
Number of Winners	Prize	Prize Totals
1	$10,000	$10,000
2	$5,000	$10,000
30	$1,000	$30,000
400	$500	$200,000
20,000	$200	$400,000
Carried to the Second Class		$200,000
Government's cut		$150,000
100,000 tickets at $10 each		$1,000,000

The "fortunate adventurers" winning prizes of $20 could take their winnings in (paper) money or let their winnings run (tickets for the next drawing were $20). 20% of the proceeds were carried to the next drawing where the stakes were higher. Winners of larger amounts took their prizes in the form of treasury notes payable initially at four percent interest annually, with the principal paid at the end of five years. The government took a 15% cut in the proceeds.

The unfortunate adventurers who had no winnings in the first round had the first opportunity to buy the second billet of tickets. After a length of time, unsold tickets were opened then to all-takers. Tickets for the third round were $30 and the fourth round tickets were $40 (with the largest single-winner in the last round capable of winning $50,000).

Had all the tickets been sold in all four lotteries, $10 million would have been raised. $1.5 million would have been retained by the Congress for their initial 15% cut. The remaining $8.5 million of the $10 million was to be paid out in prizes for the four lotteries. Only $3.1 million of this amount, however, would be in currency — $5.4 million of this would be deferred for five years with annual interest payments.

$1.5 million in cash and $5.4 million in five-year loans would have been a successful fund-raising scheme by many accounts even today. Unfortunately for Congress, local citizens then proved either more frugal or more opposed to such forms of gambling than anticipated (or, more likely, more distrustful of the ultimate value of their winnings should they actually be successful). Lack-luster sales greatly diminished the success of the national lottery.

The first drawing was in 1778, the fourth in 1782. During this period occurred some of the greatest monetary devaluation of the currency, ultimately producing negligible income for Congress.

Loan office certificates

The first borrowing of money in a more formal nature consisted of *Loan Office Certificates*. These certificates were first issued on October 3, 1776 when Congress authorized the issuance of $5 million. These certificates differed from Continental Currency in two important ways. First of all, these certificates bore interest, initially at the rate of four percent per annum. Secondly, they were issued in amounts between $200 and $10,000 (quite large sums of money in those days). Loan Office Certificates did not therefore circulate as money, but were investment vehicles.

Loan offices were directed to be established in each State by the October 3rd resolution, for the convenience of the lenders and to keep track of the money lent and the certificates issued.

Statement of Loan Office Certificates		
	Journals of the Continental Congress	Amount of Certificates

Date	Volume #	Page #	Authorized
October 3, 1776[1]	5	845	$5,000,000.00
January 14, 1777	7	36	$2,000,000.00
February 22, 1777	7	143	$13,000,000.00
January 17, 1778	10	59	$10,000,000.00
February 3, 1779[2]	13	141	$20,000,000.00
June 11, 1779[3]	14	717	$20,000,000.00
September 5, 1780[4]	17	804	$1,000,000.00
			$71,000,000.00

NOTES:

1. A Nov. 15, 1776 Resolution (6 Journal 951 @ 955) specified the denomination of Oct. 3rd as follows:

	Number	Denomination	Sub-Total
	737	1,000	$737,000
	1,470	600	$882,000
	2,205	500	$1,102,500
	2,940	400	$1,176,000
	3,675	300	$1,102,500
			$5,000,000

2. Jan. 23, 1779, (13 Journal 103 @ 112) proposed $40 million be borrowed in Loan Office Certificates. An April 27, 1779 Resolution (14 Journal 513 @ 523) ordered $4 million dollars worth of $1,000 Certificates be struck, replacing an equivalent amount of lower denomination certificates originally ordered (of the $20 million).

3. A June 25, 1779 Resolution (14 Journal 770 @ 772) ordered the $20 million of certificates be prepared and sent to the Loan Offices. An April 27, 1780 Resolution (16 Journal 391 @ 392) ordered $4,800,000 of the June 11, 1779 certificates re-designated as certificates of $3,000 to $10,000.

4. The September 5, 1780 Resolution specified the loan certificates denomination be the *specie* value.

5. The Loan Office Certificates resolved to be struck below and issued for payment to the "fortunate adventurers" of a *lottery,* the number and denomination as follows:

	Number	Denomination	Sub-Total
October 30, 1779 (15 Journal 1225)	18	$5,000	$90,000
	100	$1,000	$100,000
	820	$500	$410,000
			$600,000
January 2, 1780 (19 Journal 7)			
		$30,000	$30,000
		$20,000	$20,000
	2	$15,000	$30,000
	2	$10,000	$20,000
	10	$5,000	$50,000
	200	$1,000	$200,000
	1,000	$500	$500,000
			$850,000

Commissioner of Army Accounts Certificates

A close relative of the Loan Office Certificates were certificates issued by the Commissioner of Army Accounts (for war materiel and supplies).

The interest-bearing Loan Office Certificates and Army Certificates were of more-moderate issuance as compared with Continental Currency, yet they also suffered an extensive amount of depreciation.

Bills of Exchange

Besides issuing Continental Currency and Loan Office Certificates, the Continental Congress also issued Bills of Exchange and used these financial securities for the purchase of needed goods and services.

As stated in an **1826 House Report**:

> "A foreign bill of exchange is in fact nothing more than a transferable or negotiable assignment, by a person in one country, of a sum of gold or silver or other foreign currency, due or belonging to him in some other country."
>
> U.S. Serial Set, 19th Congress, 1st Session, # 135, *"Foreign Bills of Exchange"*, March 22, 1826, Microfiche Ref. # 142, @ page 3.

These negotiable instruments were evidence of an obligation owed by the issuer to the party named on the face of the bill and they were transferable between individuals by endorsement on the back of the bill.

Bills of exchange constituted guarantees of payment; therefore anytime the holder endorsed the bill to another, he remained obligated should it ultimately be dishonored by an earlier guarantor. The person or entity last receiving the bill was thereby best indemnified against loss.

Though bills of exchange suffered occasional default, they performed certain functions well. These bills allowed the transfer of hard assets in one country though the owner happened to be in another. The shipment of gold and silver over the treacherous seas was thus minimized.

Though the shipment of gold or silver overseas was relatively cost-effective even in the 18th century,* the use of bills of exchange still saved this often-unnecessary expense that added directly to the bottom line.

> *Due to their high value and low relative mass (especially gold), the transportation of gold or silver overseas was less costly than one might think. Including insurance, their transport between Europe and the colonies ranged in cost from 2-3% of their value.
>
> William Stanley Jevons, *Money and the Mechanism of Exchange*, D. Appleton & Co., New York, 1876, Chapter V, Page 9.

In their Journal, the Second Continental Congress noted on **June 10, 1779** that:

> "The Committee on the Treasury, to whom it was referred to prepare Drafts on the Minister Plenipotentiary of the United States of America at the court of Versailles in favor of the Committee of Commerce, have according to order prepared four setts of Bills of Exchange, one sett for 150,000, one sett for 100,000 one sett for 70,000 and one sett for 40,000 Livres Tournois, the whole amounting to 360,000 Livres Tournois."*
>
> Volume 14, Journals of the Continental Congress, Page 709 @ 715-716.

At the exchange rate of 18.15 cents per French Livre, 360,000 Livres equated to $65,340 being borrowed (on June 10th, 1779) from France through bills of exchange used as the evidence of that loan.

One of the primary objectives of our Minister Plenipotentiary to France was to negotiate financial aid for the States' war efforts. Other objectives included reaching favorable trade agreements and direct military aid (men and ships). By looking at the names of men who held this position, one has an indication of its importance during this era. Benjamin Franklin, first serving as one of three people first commissioned to France, later became the sole Minister Plenipotentiary when Congress invested such negotiating authority in one person.

Even after the war, this office held great importance, as negotiating commercial treaties were still vital to the newfound nation. Thomas Jefferson, whose knowledge and skills would have undoubtedly served the Constitutional Convention well, nevertheless remained in France during the convention, where he held his position as Minister Plenipotentiary from 1785 to 1789.

The acknowledgment that the congressional committee authorized various setts of bills of exchange tells of another benefit — the ease of replacement due to loss of the physical bill (at sea, burned or otherwise destroyed). Each bill was issued in numbered sets; if the first of the set was lost or destroyed, then another was sent in its place (with redemption voiding the remainder).

Bills of exchange could be (issued) payable at sight, at which point they did not differ materially from a check or draft. If bills of exchange were made payable at a future date, then they would be discounted from their face value (to reflect pre-payment of interest), dependent upon their nearness to the designated redemption date.*

*Two primary methods for extending credit differ depending upon when the monetary interest is collected. If interest is collected *after the fact*, interest is simply added to the principal according to the agreed-upon terms and rate. For example, if $100 is loaned at 6% simple interest for one year; at the end of one year, a total of $106 is due. Debtors generally view their debt in this manner. Creditors may also view their loans in such a manner, at least until they attempt to sell or otherwise transfer this loan asset to some other lender.

Conversely, interest may be collected *as time passes* (up front); if the issuer of a $100 Bill of exchange has agreed to the payment of 6% interest, he will agree to a 6% *discount* and accept $94 (and 34 cents) in money for payment due in one year of $100. As time passes, the value of the bill in money nears closer to the $100 that is due at maturity to whomever then holds the note (discounts due to poor credit risks or other factors are here ignored).

Discounting makes it easier for debt instruments to be transferred between different creditors while allowing each owner the interest due dependent upon the time held (especially relevant on longer-maturing securities such as bonds).

With increasing long-distance trade, it became apparent over time that large sums of wealth were traded and owed on both sides of the Atlantic. With bills of exchange, the various parties on either side of the Atlantic could trade assets indirectly, so that money owed in America was paid in America (and vice versa in England), even if the creditor and debtor of a particular transaction were on different continents. By extending the bills beyond only the immediate importer and exporter involved in a given trade, the bills could extinguish debts locally. Only when there was a net flow of excess trade in one direction did actual gold and silver need to be supplemented.

Prior to the Committee on the Treasury giving its order to issue the June 10th bills of exchange, Congress made the following resolve:

> "That the faith of the United States be pledged to make good any contract or engagement which shall be entered into by their Minister Plenipotentiary at the Court of France for procuring money or credit to enable him to honor the said Bills and provide for their punctual discharge."

Volume14, Journals of the Continental Congress, Page 709 @ 716

The total amount of contracts and engagements that Congress entered into and for which bills of exchange were provided is difficult to ascertain today. Early compilation records are scarce and evasive (such records cite difficulties in foreign correspondence, lack of accurate recording, etc.).

Congress listed a compilation of French funds sent to the United States in 1780 and early 1781 in their Journals of June 18, 1781. The Count de Vergennes, Charles Gravier, was the Minister of Foreign Affairs for France in 1781. Notations state that he loaned (through Dr. Franklin [as the foreign minister to France]) to the United States, three million French Livres Tournois, procured on his own credit. The Journal also listed that in December (1780), Dr. Franklin "wanted one million more to honour the bills drawn by Congress; and that he received the fourth million". Volume 20, Journals of the Continental Congress, Page 658, @ 674-675

The French Foreign Minister also procured for Franklin four millions of Livres in December of 1780, totaling "eight millions borrowed on the guaranty of France since the aforementioned period". It was also noted that King Louis XVI of France was making "a gratuitous donation of the subsidy of six millions, which in the whole make up the sum of fourteen millions since the commencement of the year 1780". *Ibid.*

Eight million Livres in loans and six million Livres in grant subsidies, amounted to 14,000,000 Livres received from France between January of 1780 and June of 1781, equivalent to $2,541,000.

Holland, and to a lesser extent, Spain, also provided the United States with needed infusions of liquidity and capital. So un-creditworthy were the United States, however, that Holland refused to loan them money even when the loan would have been personally guaranteed by King Louis XVI. The French King had to take out the Dutch loans personally, and then re-loan these funds to the United States.

Bounties and Prizes

Besides issuance of various government securities, Congress also used other methods to fund the war effort. Bounties were inducements given by the military to aid enlistment, promising pay in one form or another (generally after the conclusion of the war). On **September 16, 1776**, Congress, in enlisting 88 battalions, resolved:

> "That twenty dollars be given as a bounty to each non-commissioned officer and private soldier, who shall inlist to serve during the present war, unless sooner discharged by Congress:
>
> "That Congress make provision for granting lands, in the following proportions: to the officers and soldiers who shall so engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy:
>
> "Such lands to be provided by the United States, and whatever expence shall be necessary to procure such land, the said expence shall be paid and borne by the states in the same proportion as the other expences of war, viz.
>
> "To a colonel, 500 acres; to a lieutenant colonel, 450; to a major, 400; to a captain, 300; to a lieutenant, 200; to an ensign, 150, each non-commissioned officer and soldier, 100."

Volume 5, Journals of the Continental Congress, Page 760 @ 762-763

The twenty dollars for soldiers who shall "inlist" is an enlistment bonus or "bounty" which would typically be paid up front.

The granting of lands to all soldiers and officers who shall continue in the service until "the close of the war" would necessarily be a bounty which could not be paid until after the war concluded (when the heirs of those "slain by the enemy" would likely also get their just due). It was well-understood that victory was necessary to fulfill this promise.

It wasn't until **October 22, 1787** that Congress (under the Articles of Confederation) finally designated the public lands from which the military land warrants would be issued in fulfillment of such bounties of land:

> "*Resolved*, That a million of Acres of land …be reserved and set apart for the purpose of satisfying the military bounties due to the late Army."

Volume 33, Journals of the Continental Congress, Page 695 @ 695-696

The reason that it took four years after the conclusion of the war to even indicate the location from where these lands would be granted (within the bounds of the territory "North West of the River Ohio") is that many factors had to come into play before the land could be settled. State cessions of these un-apportioned lands to the United States had to be completed; Indian claims of possession had to be extinguished; territorial government had to be set up (via the Ordinance of 1787 [Volume 32, Journals of the Continental Congress, Page 334]); land offices had to be set up and manned; lands had to be surveyed, and roads opened.

Had all these factors been completed while the war was still being waged, undoubtedly this inducement could have been better-utilized; easing some the need for money for pay of those soldiers who could afford to postpone some of their remuneration.

Bounties were good for the officers and soldiers who eventually received them, but still constituted an expense which would press upon the woefully-underfunded Congress.

Prizes were the naval equivalent of bounty inducements given for the Army. Prizes, however, provided the decided advantage that they cost the United States nothing — for such prizes consisted of assets of the enemy. Military success translated into financial success of the participants at no additional cost to the United States. The capture of ships of England and her allies provided seamen strong financial incentives for continuing their success while easing their burdens from lack of regular military pay.

On **January 6, 1776**, the Continental Congress issued the following resolve declaring the proportions of prizes to be divided amongst the crew of a successful naval operation. The resolution read:

> "*Resolved*, That the Commander in chief have one twentieth (part) of the said allotted prize-money, taken by any ship or ships, armed vessel or vessels, under his orders and command.
>
> "That the captain of any single ship or armed vessel, have two twentieth parts for his share, but, if more ships or armed vessels be in company when a prize is taken, then the said two twentieth parts to be divided amongst all said captains.
>
> "That the captains of marines, lieutenants of the ships or armed vessels, and masters thereof, share together, and have three twentieth parts divided among them equally, of all prizes taken when they are in company.
>
> "That the lieutenants of marines, surgeons, chaplains, pursers, boatswains, gunners, carpenters, the masters' mates, and the secretary of the fleet, share together, and have two twentieth parts and one half of one twentieth part divided amongst them, equally of all prizes taken when they are in company.
>
> "That the following petty warrant and petty officers, viz. (allowing for each ship, six midshipmen; for each brigantine, four midshipmen, and each sloop, two midshipmen, one captain's clerk, one surgeon's mate, one steward, one sailmaker, one cooper, one armourer, two boatswain's mates, two gunner's mates, two carpenter's mates, one cook, one cockswain, two serjeants of marines for each ship, and one surgeon for each brig and sloop) have three twentieth parts divided among them equally, and when a prize is taken by any ship or vessel on board of which the Commander in chief is, or in company, then the Commander in chief's cook or cockswain to be added to this allotment, and have their equal shares with these last mentioned.
>
> "That the remaining eight twentieths, and one half of a twentieth, be divided among the rest of the ship or ship's companies, as it may happen, share and share alike.

"That no officer or man have any share but such as are actually on board their several vessels, when any prize or prizes are taken, excepting only such as may have been ordered on board any other prizes before taken, or sent away by his or their commanding officers."

Volume 4, Journals of the Continental Congress, Page 36-37

That all the crew, from the Commander-in-Chief himself down to the lowest sailors, stood to benefit at the successful capture of ships of the enemy lent an air of adventure and brashness for which seamen of that era became well known. Severe duty in a harsh and often ruthless environment, occasionally coupled with quick riches, promoted a "live hard before you die" attitude of many.

Naval ships, of course, were built and outfitted at the expense of the United States. Even better for the not-so-credit-worthy United States were the privateers who built and outfitted private ships of war at their own expense, who were given Letters of Marque and Reprisal by Congress (see Article I, Section 8, Clause 11 of the Constitution). With this license, the captain and his crew would be authorized by the United States to seek prizes of the enemy (under proper regulations). If they were captured by the enemy themselves, the Letters provided them the protection of the United States — they were to be treated as prisoners of war rather than as common pirates.

Military Pensions and Veteran's Benefits

Like any good bankrupt with greater need than money, Congress continuously sought to pay in the future what they could not afford in the present. Thus Congress developed their first military pensions. Further inducements were needed to keep military officers and soldiers active in the service of the United States; for the pay was essentially non-existent, the provisions sparse, and the conditions brutal.

On May 15, 1778, Congress resolved that any military officer who continued in service to the conclusion of the war would receive half pay for seven years following the war. Three qualifications were given — the first being "if they live so long". They also had to actually reside in "some one of the United States". The final requirement was that they could not later hold any office of profit under the United States or any of them (no "double-dipping" — no drawing of a military pension while also drawing a civil government salary).

Non-commissioned officers and soldiers were to receive "further reward of eighty dollars at the expiration of the war".

Volume 11, Journals of the Continental Congress, Page 501 @ 502

On August 11, 1779, Congress resolved that officer's half-pay would "continue for life" and removed the restriction preventing double-dipping.

Volume 14, Journals of the Continental Congress, Page 944 @ 949

On January 17, 1781, Congress extended benefits to the officers and medical staff in the hospital department.

Volume 19, Journals of the Continental Congress, Page 64 @ 68-69

On March 22, 1783, Congress authorized five years full pay in money or interest-bearing securities in lieu of half pay for life (the option determined by military lines in the separate States [rather than by individual decisions of the officers in those lines]).

Volume 24, Journals of the Continental Congress, Page 206 @ 207-210

Requisitions

War is bloody and it is expensive — the quest for independence proved no exception on either account. Continental currency, lotteries, domestic loans, foreign bills of exchange, bounties, prizes and pensions were all methods used to meet expenses with varying degrees of success. However, these methods yet came up short.

Another means used to fund the military quest for independence represented the darker side of obtaining funds — military requisitions (in essence, military confiscation).

An **April 18, 1781** Congressional report, given by the committee appointed "to estimate and state the amount of debts due from the United States…" provided a cursory look at the methods attempted by Congress to raise sufficient revenue. After explanation of failed method after explanation of failed method, the report stated:

> "The army was in such extremity for want of provisions, that the Commander in Chief was reduced to the sad alternative, either to suffer it to disband, or to collect supplies by military force. He preferred the latter, and the inhabitants of New York and New Jersey, though they felt the injury, saw the necessity, and patiently submitted."

Volume 19, Journals of the Continental Congress, Page 402 @ 410

Perhaps sadder words could not be succinctly written which would show the level of desperation undoubtedly felt by General Washington — to be reduced to taking by force that which was needed for the war effort. Government securities, of course, were given to the owners of such confiscated property pledging future payment (keeping in line with the principle later clearly established by the Fifth Amendment; that no private property shall "be taken for public use without just compensation"), but everyone involved knew that eventual repayment would be drastically discounted from face value due to depreciation of the debt instruments provided.

Debt

As detailed in the charge given to the delegates attending the Constitutional Convention (to "render the federal constitution adequate to the exigencies of government, and the preservation of the union"), by 1787 the greatest exigency remaining was the need to come current in payment of the overdue debts of the United States (so indebted were the United States). Thus, the purpose most pressing for establishing the Constitution was to provide a structure of government capable of paying its debts.

Article VI, Clause 1 of the Constitution as later ratified provided for a constitutional adoption of the previous debts of the United States, stating:

> "All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation."

The United States, by the express terms of the Constitution, were therefore obligated to honor these debts incurred under the Second Continental Congress and under the Confederation. This war-related debt, as noted simply and accurately by Hamilton, was "the price of liberty".

> "The debt of the United States…was the price of liberty."
>
> Secretary of the Treasury Alexander Hamilton

American State Papers, Finance Series, Volume 1, 1st Congress, 2nd Session, House Report # 6 "*Public Credit*", Page 15.

Though the debts were justified, and the repayment of them proper, they were predominantly being deferred due to the inability of the early Congress to raise necessary funds from the States. This deferral discounted their value further, further souring the economic situation of the day.

It is helpful to have an idea of the total war debt of the United States in the era before the time of the Constitutional Convention. The early debt figures are again often of questionable accuracy not only due to inadequate compilation, but the necessity of estimating the specie value of the debt instruments (after depreciation).

The Second Continental Congress issued the following debt summary:

1781 Public Debt Estimates		
	Face Value	Specie Value
Foreign Debt		
French Bills of Exchange		$2,066,813.00
Spanish Bills of Exchange		$518,502.00
Dutch Bills of Exchange		$543,428.00
		$3,128,743.00
Domestic Debt		
Loan Office Certificates	$60,558,444 @ ~5:1	$11,391,564.00
Bills of Credit	$200,000,000 @ 20:1	$10,000,000.00
Arrears in Army Pay		$1,000,000.00

Interest on Loan Office Certificates		$244,683.00
Army Certificates	$63,966,156 @ 75:1	$852,822.00
		$26,617,812.00

Source: February 19, 1781. Volume 19, Journals of the Continental Congress, Page 160 @ 165-166

Over $26 million of government indebtedness (specie value) was acknowledged in 1781. The severe discount (up to 75:1) in the securities from their face value indicated within the report provides ample evidence of Congress' actual inability to pay. It should be noted that even though $26 million was much greater than Congress could then pay in 1781, such debts would double and even triple before repayment would begin nearly a decade later (due to another few years of war, together with compound interest).

The Congress under the Confederation had no means to levy common taxes or excises.

On March 18, 1780, Congress under the Articles of Confederation passed a resolution to request the States "pass laws enabling Congress to levy an impost of one per cent on all exports and imports, as a fund for sinking the emissions for carrying on the present war".

Volume 16, Journal of the Continental Congress, Page 261

Nothing came of this resolution, however (had this simple measure been ratified, the Constitution itself would perhaps not have been proposed in 1787, ratified in 1788, and become operational in 1789).

The Articles allowed Congress, when nine States were in agreement, to lay requisitions upon the States for needed funds. Dealing with States sovereign in nature, however, meant that there was little enforcement capability should any State fail to provide their appropriate share. Many States paid what they could when they could, but failure of some further lessened the likelihood of future payment for others.

Article VII of the Constitution declares that the Constitution would be established (between the States so ratifying the same) upon the ratification of conventions of nine States. Thereafter, government could be scheduled to begin.

On March 4, 1789, a Congress of the 11 States which had ratified the Constitution to date began at New York (North Carolina and Rhode Island did not yet ratify the Constitution, and thus were not part of the United States under the Constitution as of that date). The House met and adjourned daily until a quorum could be met and finally first met with a minimum quorum on April 1, 1789. The Senate met and adjourned daily until a quorum was ultimately met on April 6, 1789.

A President was then soon elected according to proper form; Washington took his oath of office on April 30, 1789. The supreme Court justices were nominated, confirmed and first met on February 1, 1790.

Work began in earnest to devise a plan to bring current the overdue debts. The House of Representatives formally requested first Secretary of the Treasury Alexander Hamilton to detail

such a plan. Hamilton rose to the occasion and set about his task of devising a system of credit to augment (proponents of hard money would perhaps say undermine) the monetary supply of the nation.

In a 1790 House Report, Hamilton detailed his plan which utilized the federal government's debt to support and supplement the monetary base.*

*Coupled with Hamilton's later strong support for a federally-chartered private bank (the Bank of the United States) which circulated debt-based currency, Hamilton clearly supported the use of government debt to serve as an asset base for a large percentage of circulating money.

American State Papers, Finance Series, Volume 1, 1st Congress, 2nd Session, House Document # 6, "*Public Credit*", Page 15.

Given the Herculean task confronting the Secretary of the Treasury (previous attempts to stabilize the financial condition of the United States had been unsuccessful), perhaps Hamilton would be criticized no matter the success of his recommendations (or, if his recommendations lacked sufficient substance to avoid criticism, his efforts would have likely ended in utter failure).

On August 4, 1790, Congress carried out the vast majority of the Secretary's provisions for beginning payment of the debts of the United States. The Congress thus made a significant step to begin building a capable financial base. Like every foundation upon which a structure is built, its integrity is ultimately dependent upon the integrity of the foundation.

One of the earliest figures giving an accurate account of debt of the United States was provided using January 1, 1790 as the date of valuation. Since the House report detailed the debt actually assumed by the United States, this serves as an accurate accounting of that debt.

Liquidated Debt of the United States
as of
January 1, 1790
(after assumption of State war debts)

Foreign Debt				**$12,198,190**
Due France			$7,895,300	
Loans		Livres		
November 5, 1781 (up to?)		10,000,000		
September 3, 1783		18,000,000		
January 1, 1784		6,000,000		
Supplies		532,364		
Arrears in Interest		8,967,913		
Total Livres		43,500,277		
at 18.15 cents/Livre, equals		$7,895,300		
Due Holland			$3,863,000	
Loans		Guilders		
June 11, 1782		5,000,000		
March 9, 1784		2,657,500		
June 1, 1787		1,000,000		
March 13, 1788		1,000,000		
Total Guilders		9,657,500		
at 40 cents/Guilder, equals		$3,863,000		
Due Spain			$439,889	
Total Foreign Debt			$12,198,190	
Domestic Debt				**$63,216,238**
Principal			$45,023,842	
Certificates		$27,197,490		
Loan Office Certificates (old emissions, reduced to specie value)	$11,463,802			
Loan Office Certificates (new emissions, in specie value)	$128,960			

Army Certificates	$10,967,146			
State Commissioner Certificates	$3,723,625			
Register of the Treasury Certificates	$715,704			
Army Staff Certificates	$1,159,170			
Sub-Total	$28,158,405			
Deduct certificates accepted for payment of public lands [1]	-$960,915			
Total Certificates	$27,197,490			
Assumed Debt of States		$12,181,254		
Balance owed to Creditor States		$3,517,584		
Claims for unpaid services & supplies		$2,127,514		
Total Principal		$45,023,842		
Interest			$18,192,396	
Accumulated Interest		$11,398,319		
Interest on Assumed Debt of States		$6,090,561		
Interest on Balance Owed to States		$703,517		
Total Interest		$18,192,396		
Total Domestic Debt			$63,216,238	
Total Debt as of January 1, 1790				**$75,414,428**

Source: American State Papers, Finance Series, Volume 1, 4th Congress, 2nd Session, House Doc. # 106 "*Public Debt*", Pages 481 - 483

Note 2: It appears that the number given within the Report for payment of public lands ($969,015.44) transposed the numbers 0 and (the second) 9 (as well as off by $.10). The number shown above ($960,915.34) is corrected from that actually listed in the report ($969,015.44) by deducting $8,100.10.

The chart above represents the "liquidated" debt of the United States; "liquidated" meaning that debt which the United States expressly acknowledged and for which liquidation (payment) was now being expressly provided. This liquidated debt consisted of loans (principal and interest) and debts (owed on the back-payment for goods previously supplied or services previously performed which remained unpaid) which would therefore now begin to be repaid.

Treasury Secretary Hamilton did not record in his January report the yet-unpaid $231,552,775 bills of credit, but estimated their current (specie) value to be approximately $2,000,000 (i.e., less than one penny on the dollar).

This currency would therefore be part of the "unliquidated" portion of the domestic debt yet owing for which no funds were then being recommended in Hamilton's 1790 House Report for its eventual liquidation. This unliquidated sum would therefore be in addition to the $75 million stated above.

That Hamilton did not recommend *anything* to be paid on these debts (upon which had been pledged on the "faith" of the United States) in his report is of even greater significance when one considers that the United States assumed the individual State war debts (debts for which they were not ever made collectively liable).

When Congress passed the August 4, 1790 legislative act, Congress provided to pay the bills of credit at the rate of "one hundred dollars in the said bills, for one dollar in specie". Volume I, Statutes at Large, Page 138 (Section 3)

Though in 1790, provision was finally made to pay one penny on the dollar for the bills of credit earlier emitted, at the time of the constitutional convention in 1787, the paper currency had no verifiable market value whatsoever.

When the theoretical value of hundreds of millions of dollars of a security is lost, this tends to create a lasting effect in the minds of all who suffered through the loss, including once-wealthy people who tend to get involved in politics or who are otherwise influential with politicians.

The experience resulting from the earlier emission of bills of credit had left a very sour taste in the mouths of many Americans regarding paper money at the time of the constitutional convention and during the era of the ratification debates.

Chapter 3: Weights and Measures

The primary constitutional clause regarding money is found in **Article I, Section 8, Clause 5**, which reads:

> "The Congress shall have Power...To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

Clause 5 contains the Constitution's most important monetary principle.

Upon first reflection, the three words "To coin Money" would seem to fit the bill. As important as is this power, this is not the Constitution's most important monetary principle (by itself).

The most important monetary principle in the Constitution is the direct tying of any and all money coined by Congress to an objective system of weights and measures such that a Standard of Value will be created.

In other words, one should not attempt to take the power "To coin Money" out of its context found within the rest of the clause — nor the remainder of the Constitution — for if one does, one may perhaps be improperly swayed from learning its true meaning.

The power to coin money, like every other express power of Congress, does not exist in a political vacuum, but only within context of the entire Constitution, under the governing principles established in the Declaration of Independence.

Any type of money which could be coined, printed or otherwise created that hasn't a direct tie to an objective, quantifiable and qualitative system of weights and measures such that a true standard of value could be established will not long serve the primary role of money (that of a store of value over time and distance).

Extensive use of an arbitrary system of money without such quantitative and qualitative standards inevitably destroys value as it destabilizes and demoralizes the very society which tolerates its use.

It is thus not by coincidence that Congress' power "To coin Money" is found within the same constitutional clause granting Congress the power to fix "the Standard of Weights and Measures" and to "regulate the Value" of the coin Congress strikes or the foreign coin Congress makes current as American money.

Just as the inch is a unit of length or distance, the pound a unit of weight or mass, the gallon a unit of capacity or volume, and the minute a unit of time, the dollar also became a unit, a unit in the establishment of a standard of value.

The standard of value (or monetary unit of value) creates a fixed standard or benchmark so that all goods, services and other items of worth can be measured against it. The unit of value is further broken down into proportional increments, which provides ease for valuations and

transactions both large and small. Monetary units of value bring a measure of objectivity into a field otherwise well-known for its subjective nature.

One should not brush aside lightly the practical necessity for standards. Think for a moment of the confusion and impracticality of trade in a locality which had no concept of units of weight, measure or value. It is inconceivable that society could advance without such a system, no matter how rudimentary.

Precision in measurement of value is every bit as important as precision in the measure of ingredients in a laboratory or within industry. Just as loss of the ability to weigh or measure ingredients will spoil a product batch being made, so too will the destruction of one's standard of value spoil industry as capital is consumed and trade unnecessarily withers on the vine.

An honest standard of value best provides individuals with the consistency they need to make long-term business plans which have the greatest chance to accurately predict future demand, rather than being unwittingly exposed to the speculative booms and busts inherent in arbitrary, fiat money systems (where "value" is declared by government fiat or decree, but wherein that government is actually powerless to maintain that declared value).

No one proposes that units of weight, time or distance should fluctuate at the whims of government; the idea that the unit of value should be severed from objective measure is little different an argument.

People readily acknowledge that the gallon should mean the same measure of capacity in differing places and at different times, yet think nothing of the fact that the dollar known today no longer has a fixed meaning (of a particular weight and fineness of silver or gold); that a dollar as a slip of paper printed at will can suffice (no matter how many or in what denomination they are printed).

The idea of a "standard" without firm tie to objective meaning negates the concept of verifiable measures which are fundamental to commerce. If indeterminate, it is not a standard. Such is the underlying, root cause of the United States' dire economic gyrations. The severing of one's standard of value from objective measure destroys organized society, inevitably impoverishing nations even once wealthy and powerful.

In trade, it makes little sense to have government strive to maintain the accuracy of weights and measures (say, in a *pound* of vegetables as weighed on the scales of a supermarket) while allowing the standard of value to be severed from all objective measure.

There is little difference of being defrauded if one sells short a gallon of gas with honest money, or has a full gallon but uses money without objective measure; either way, both customers and merchants (realize that the merchant is merely someone else's customer) alike will become impoverished over time.

The loss of an objective measure of value destroys honest valuations. Savings are discouraged as money substitutes become devalued over time. People cannot get ahead by hard work and thrift, finding they must increasingly buy today on credit if they ever want to have a desired item (for it will cost even more tomorrow as their money loses value and buys less). Speculation becomes commonplace; yet those who speculated too aggressively will find

themselves increasingly cut off at the knees at the reoccurring blips in the marketplace which become increasingly common.

The name of the units ultimately established are neither important nor necessarily fixed by the Constitution, though that document does use the term “dollars”, “miles”, “days” and “years” within its text.

It is not even that the standard units designated at one point in time cannot change at a later date, when adjudged necessary and/or expedient. For example, though there would perhaps be ample temporary confusion should the United States actually convert to the metric system due to a general unfamiliarity of Americans to the meter, liter and gram; no one would be necessarily harmed by the actual conversion itself.

The same could be said for a change in the monetary standard, from the dollar to some other monetary unit. The primary importance when changing standards involves establishment of conversion or exchange rates between the old and new. For example, one inch equals 2.54 centimeters while, of course, 12 inches equals one foot.

Conversion rates between differing standards and between differing measures within the same system keeps everyone honest (or at least allows verification of one’s honesty).

No one is enriched or impoverished by using one standard over another; they are simply differing systems for measuring the same parameter. Whether one stated a distance in feet, inches, or meters (say, two feet or twenty-four inches or .6096 meters), the three measures of distance are equally accurate (down to the precision of the measure, of course).

The study of American monetary law presupposes basic knowledge of weights and measures, for lawful tender money in the constitutional sense is only an amount and purity of silver or gold.

Ordinary items of commerce in America, including the non-precious metal copper, are weighed under the avoirdupois (av’ ər də poiz’) weight classification system using the 7,000 grain-pound divisible by 16 ounces (with 437.5 grains to the ounce). A “grain” is the smallest unit of measure (originally, the weight of an ample-sized kernel [grain] of wheat).

When one buys a pound of butter, for example, one is buying a pound unit of weight of butter according to the avoirdupois weight classification system.

Silver and gold, as precious metals, however, are weighed under the troy weight classification system.

In the troy weight system, 24 grains added together make up what is termed a pennyweight (often abbreviated “dwt.” [“d”, from *denarius*, a monetary unit of early Rome]). There are 20 pennyweights in a troy ounce, equating therefore to 480 grains in the troy ounce. A troy pound consists of 12 troy ounces; therefore of 240 pennyweights, or 5,760 grains.

The monetary value of a coin is attributed only to the grains of fine silver (pure silver) in the silver coinage or fine gold (pure gold) in the gold coinage. Pure silver and especially pure gold are relatively soft, however, and would wear down rather quickly in general circulation if they remained in pure form. They are hardened or toughened for better durability to use and

abuse with the alloying (adding) of copper to silver coins and silver & copper to gold coins (it should be noted that the alloy [even including silver in the gold coin] adds no monetary value to the coin under our laws).

The term used to refer to silver with (added copper) alloy is *standard silver*. Gold with an alloy (of copper and generally also of silver) is referred to as *standard gold*. Silver or gold at a specified standard is commonly stated in thousandths, so 900 fine silver is 900/1,000^{ths} (.900) silver, with the remaining 100/1,000^{ths} consisting of the alloy.

900 fine gold has a mixture of copper and silver in the remaining 100 parts. .999 gold is essentially pure gold; the remaining .001 is generally left for assaying error.

Gold is also referred to occasionally (especially in the jewelry trade) in *carats*, with 24-carat gold being pure gold (18 carats at 75% pure or 750 fine gold, 14-carats at 14/24^{ths} pure, or 58.33% pure). American monetary laws and monetary reports rarely ever discuss carats of gold, though gold 11/12^{ths} Fine (.916667) is 22-carat.

Bullion refers to gold or silver in bulk form, such as bars or ingots, often in .999 fineness after refining and assaying.

Another term one comes across when dealing with gold is *specie*, literally meaning repayment "in kind" (or "in like kind"; i.e., the same as what was loaned — gold or silver coin, rather than in paper claims to money).

Many proponents of the gold standard today support the concept of gold certificates to obtain the convenience of paper, yet while attempting to maintain a tie to honest money. Gold certificates are similar to paper warehouse receipts that are backed by gold stored for no other use than to back up the claim (though a warehouse receipt specifies a specific lot of particular items [i.e., certain gold coins, not any non-specific gold coin]).

Though use of gold certificates as money are convenient, need not necessarily have the harmful effects normally associated with paper money (letting loose the printing presses) while having its convenience, the Constitution itself only actually supports a gold and silver <u>coin</u> standard.

Proponents of gold certificates (and silver certificates) cannot correctly argue the Constitution expressly supports such a system, which is generally but a transition step between use of gold and silver coin to paper money printed without tie to either (as an expedient way to get from "A" to "B").

Congress, by Article I, Section 8, Clause 5, have the express power to fix the standards of weights and measures. Within that authority, Congress enacted the Act of July 28, 1866, which first authorized the metric system for use in the United States as an alternate system of weights and measures.

The metric system made its first appearance in coinage laws in 1873.

It is interesting to see how difficult it is to change cultural habits; metric units have made few inroads into American commerce, despite the attempt for well over 140 years.

Of primary interest to coinage in the metric weight system is the *gram*. The divisions and multiplications of the unit are all in decimal rates of 10. For example, *kilo* equals 1,000; so a *kilo-gram* equals 1,000 grams (equivalent to 2.2046 pounds avoirdupois weight). There are 454 grams in one pound avoirdupois.

Conversion rates between troy and metric units follow: there are 15.432 grains in one gram; one grain equals .0647989 grams; one troy ounce (480 grains) is equal to 31.1035 grams. There are 373.24 grams in one pound troy weight.

Another scale of weights pertinent to the history of money in the United States is the British monetary scale which had, as its smallest unit, a *farthing* (a *fourth-ing*, of bronze), of which there were four to a copper *pence*. *Pence* has the same root as *penny*, both abbreviated *"d"* (some readers may be familiar with, for example, a 16-penny [16d] nail used in construction — named for the cost of one hundred nails [in this case, 16 pence per hundred, or 16 pennies per hundred nails {with smaller nails costing less per hundred}]). 12 pence equal one silver *shilling*, with 20 shillings equaling one *pound* (abbreviated *£;* from the Latin *Librae*).

The British monetary *pound* was often referred to as the *pound sterling*, as in *sterling silver*, which refers to the historical fineness of British monetary silver, 925/1,000$^{\text{ths}}$ fine. The British *pound sterling* monetary unit likewise traces its proud name directly to an honest era when money was but a weight and purity of silver (and gold).

Although the most familiar monetary coin in the colonies at the time of the constitutional convention was the Spanish or Mexican dollar, the official "money of account" in each of the 13 colonies was the English pound sterling. Added to the difficulty of the colonial pound monetary system, as will be later explored, was that there were five different values for these monies of account, dependent upon the colony specified. Trade between any two colonies which had monetary units of the same name with differing weights of silver was difficult, with exchange rates necessary.

As later study will amply show, money with differing values with the same name easily leads to confusion.

First Treasury Secretary Alexander Hamilton, in his 1791 treasury report on establishment of a mint (see Appendix, Ch. C), stated therein that in no other enlightened commercial country but America "are men less liable to be the dupes of sounds" and in no other country were men confused less when "substituting names for things".

This was because Americans did not place great authority on names, but looked beyond the names to actual circumstances. This seems to be no longer the case, sadly. Today our ignorance allows us to be the "dupes of sounds", predominantly by use of "substituting names for things".

Given the confusing matter of numerous monies of account with differing values, thus was the obvious advantage to using the dollar of uniform value. The dollar was understood throughout the colonies (and the world); there was no need for conversion, calculation, or exchange rates when trade was bargained and settled in dollars (everywhere the dollar had the same meaning).

Chapter 4: Constitutional Monetary Clauses

The four main clauses of the U.S. Constitution which discuss money in one form or another, in the order they will be herein discussed, are:

1. **Article I, Section 8, Clause 5**:

    "The Congress shall have Power...To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

2. **Article I, Section 8, Clause 2**:

    "The Congress shall have Power...To borrow Money on the credit of the United States."

3. **Article I, Section 8, Clause 6**:

    "The Congress shall have Power...To provide for the Punishment of counterfeiting the Securities and current Coin of the United States."

4. **Article I, Section 10, Clause 1**:

    "No State shall…coin Money, emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts…"

Article I, Section 8, Clause 5 is the primary monetary clause of the Constitution. The first portion reads:

> "The Congress shall have Power…To coin Money."

Note that this clause specifically empowers Congress "To *coin* Money"; nothing here reads the power to "create" money, to "make" money, or to "print" currency or any other such power. Whether or not such authority (to print paper claims to money) is included within the power of Congress "To coin Money" (or elsewhere located) remains to be later determined.

This action "To coin Money" empowers Congress with the authority to strike coin for use as money. The first step in this physical process of coining money is to bring the precious metals into proper composition in accordance with the monetary laws enacted within conformance of the Constitution.

The Constitution here in Article I, Section 8, Clause 5 does not discuss silver or gold, or even signify (precious) metals. Perhaps some persons may argue that Congress may therefore strike wooden tokens, leather, paper or other items for use as money. Again, this matter of actual composition of the coin will be deferred for the moment, though the normal process of striking coin can nevertheless continue.

A metallurgical a*ssay* is first used to determine the compositional purity of the precious metals which have been mined, panned, dredged, reclaimed or otherwise obtained.

As any given sample of metal would not likely fall within needed parameters, *refining* the precious metal would next take place to remove unwanted impurities by skimming them off the top of the molten metal after heating, thereby concentrating the purity of that which remains.

Alloying is the step of adding purified copper to molten silver in specific quantities to harden the metal for better durability to wear, or the adding of copper and silver to gold.

Once ingots of known purity and composition in proper conformity with the monetary acts have been made, generally the next step in the process of coining money is the making of a sheet or strip of uniform thickness.

Next would be the punching out of a planchet (raw coin blank) of desired size and weight. An alternate method, depending upon the available tooling and technologic processes, would be to make a cylinder of proper circumference and then slice off the appropriate thickness of the given coin to be struck.

The coin blank's final weight must be brought into tolerance as determined by the coinage acts (neither too heavy nor especially too light), by filing, grinding, or shaving off any excess (with too light of coin to be re-melted to begin again anew).

The final step is the striking of the coin with a die under tremendous pressure, providing users with the familiar impressions on the coin's two faces (the obverse and reverse).

Looking further into **Article I, Section 8, Clause 5**, one may read:

> "The Congress shall have Power…To coin Money, regulate the Value thereof, and of foreign Coin".

"To…regulate" means "to make regular" or "to make consistent".

"To…regulate the Value" means to make the value or worth regular and consistent.

"To…regulate the Value thereof " means to make regular the money just coined — to prescribe the minted coins with a regulated or consistent monetary value, objectively based on their proportional weight and fineness (of gold and silver).

One will note the preposition "*thereof* " is used within Clause 5 to limit repetition in the second portion of the sentence. If "thereof" had not been used, the clause would have read "The Congress shall have Power…To coin Money, regulate the Value of Money Congress coins, and of foreign Coin."

The conjunction "and" is also used to link the third part of the sentence with the second again for brevity, so the beginning portion of the sentence ("The Congress shall have Power… To…regulate the Value") did not have to be repeated when discussing foreign coin.

The use of conjunctions and prepositions are allowable when the meaning is clearly understood; however, when the meaning is uncertain, it is more precise to restate nouns and to repeat otherwise omitted phrases than to strive for undue brevity.

The restatement of Clause 5 into three inter-related concepts would then be:

1) “Congress shall have Power…To coin Money”;

2) “Congress shall have Power…To regulate the Value of Money Congress coins”; and

3) “Congress shall have Power…To regulate the Value of foreign Coin”.

The ability of Congress to regulate the American value of foreign gold and silver coin is a power seldom discussed by proponents of a paper currency, for this express power ultimately helps prove that Congress may only “coin” money — may only strike coin — and may not (at least by this express power) print a currency.

One will note in the restatement of Clause 5 that the second and third portions broken down into separate concepts do not enlarge whatsoever the principle that money is anything other than coin. Each portion of Clause 5 in the original shows unified thought and is connected with one another by the clause’s very structure (by the use of prepositions and conjunctions).

The importance of this is that in the first portion of the clause, “(*To*) *coin”* is used as a verb and “*Money”* is used as a noun. In the third portion of the clause (dealing with foreign Coin), “*Coin”* is here used as a noun (modified by the adjective “foreign”).

The nouns in this clause (*money* and *coin*) are used interchangeably and reference the same thing (varying only to the degree that one term references a domestic coin while the other references a foreign coin).

Coin (the noun, not the verb), being used interchangeably with money, is therefore money and money at least includes coin. Whether money can constitutionally be anything other than coin remains to be seen (modern economic meanings of money are wholly inappropriate in our discussion of constitutional meanings of money).

Comparing the third portion of the clause with the first (foreign coin versus domestically-coined money), it could perhaps appear that the Constitution may have intended greater restriction with use of the “foreign Coin” terminology; i.e., that only foreign coin could be made current as (American) money, but that domestic “Money” could perhaps include items other than coin (such as paper).

Since this proposal seems quite plausible, a further look is necessary. However, before going there, it is appropriate to first consider the argument that some people may perhaps yet propose, that even “foreign Coin” includes paper money (issued by foreign governments).

To argue that “foreign Coin” could also include foreign paper money (or coin of base metals) would mean however that the Constitution willingly exposes the United States to the hyper-inflationary practices of unstable foreign countries wildly printing their paper money.

Even though Congress would still theoretically have the power to regulate the American value of this foreign paper money made current in America, surely Congress could not ever keep up with proper valuation of foreign money going through wild gyrations in value (think of Zimbabwe’s mind-boggling 2008-era one hundred trillion dollar bank notes).

Most significantly, if Congress were to attempt to make foreign currency (or base coin) "current" in the United States (as American money), *by what standard would they objectively and permanently affix the "value" of this foreign "money" to American money?*

As there is no more than a few cents worth of paper and ink in any denomination of currency, *would Congress make the value of this foreign currency (no matter the denomination) one or two cents?*

Or is Congress to accept the foreign government's valuation of this foreign paper currency, and to accept the foreign country's declared face value as America's valuation?

Of course, in this latter instance, the foreign government would obtain all the benefits of seignorage (profit of the face value minus printing and overhead costs), and Congress would obtain none.

Not only would market-based foreign exchange rates fail to provide objective value, but they would certainly not be "fixed": the idea of a "floating standard" makes a mockery of the concept of standards (to which American money is subject).

If Congress could make foreign currency (or base coin) current in the United States as American money, Congress would effectively transfer at least a portion of their monetary power over to a foreign government, in contravention to this legislative power being vested (permanently affixed) by the Constitution in the Congress.

The Constitution does not allow the actions of foreign countries to thusly influence the value of American money.

Article I, Section 10, Clause 1, after all, specifically prevents the States from coining money, from emitting bills of credit, and from making anything but gold and silver coin a tender in the payment of debts, so surely the Constitution would not allow foreign countries to influence American money in ways expressly prohibited the States (if "foreign Coin" had actually meant to include foreign printed currency).

Foreign gold or silver coin can be made current as American money because their inherent value may be determined in a simple relation between their gold or silver content to the content of gold and silver found in American coin.

Thus, foreign gold and silver coin can be made current as money in the United States without harm or foul (because all gold and silver coins — wherever struck — have a determinable weight of determinably-fine precious metal and therefore determinable American value which relies upon no government promise). Gold is gold and silver is silver, no matter where mined, processed, or coined.

If Congress were able to make foreign paper money (or base coin) current as American money, then inflationary measures of foreign countries could obligate U. S. creditors to receive less value from the repayment of their contracts (thereby impairing the obligations of contracts, a Power again expressly denied the several States [also in Article I, Section 10, Clause 1]).

No foreign money other than of gold or silver coin has ever been made current as money in the United States (see Chapter 8). That not a single paper note of a foreign government has

ever been made current as money in the United States does not bode well for anyone arguing now such a fantastic argument.

Even if "Money" is later determined to include paper claims to money for domestic purposes, the Constitution only allows Congress to regulate the value of foreign (silver and gold) coin, and not foreign (paper) money (or base-metal coin).

It should be noted that the dilemma which would confront Congress in the making of a foreign paper currency current as a standard of value is not inherently different than Congress making a domestic paper currency current as a standard of value, a fact which should provide ample concern to any proponent who claims that American legal tender money can be anything other than gold or silver coin.

A look beyond the Constitution is helpful to learn more about the constitutional power to coin money. When one looks to the coinage power under the 1781 **Articles of Confederation and Perpetual Union**, one may find four passages, under Articles IX and XII, which deal one way or another with money or claims to money.

The first passage (in **Article IX**) reads:

> "The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of respective states — fixing the standard of weights and measures throughout all the states…"

One of the first things to notice with this passage is the terminology of "The United States in Congress assembled". This phraseology clearly shows again the delegates of the individual States assembling together in a meeting of all the States.

Congress (whether originally meeting as the (First or Second) Continental Congress, under the Articles of Confederation or now under the Constitution) are an assembling together of the delegates of the several (colonies) States who meet together for specified purposes and enact laws on circumscribed topics for the States united together in common compact.

In this first passage of Article IX, one finds that Congress under the Articles were explicitly empowered with "regulating the alloy and value of coin struck" under their own authority (and also regulating the alloy and value of coins struck by the individual States [the States were then allowed their own mints, for striking coin according to Congress' uniform standard]).

Regulating the "*alloy* and value" of "*coin* struck" obviously limits discussion here only to metallic "alloy", and "coin"; the power of the Congress under the Confederation clearly not here extending to paper claims to money, wooden or leather tokens, etc.

Given that the Articles discussed "coin" struck and regulated "alloy", while the Constitution discusses "money" which would be "coined", at first glance it could well appear that the monetary power under the Constitution allowed far greater authority than under the Articles (since "money" is a broader term than "coin", perhaps things other than "coin" are allowed under the Constitution where this broader term "money" is therein used).

Actually, history and careful study proves the opposite to be true, that the monetary power allowed Congress (as well as the several States) under the Constitution is far more *restricted* than were earlier allowed under the Articles.

Indeed, recall that the severest depreciation of Continental Currency occurred after the Articles were first proposed in 1777 — it is not unreasonable to figure that such history could well instill powerful lessons upon those who later crafted and ratified the Constitution (in what Superintendent of Finance Robert Morris, in his January 15, 1782 Office of Finance Report to the Congress meeting under the Articles, politely references as the "shaking off the inconveniences of a depreciating medium").

The second pertinent passage of the **Ninth Article of Confederation** (while discussing the committee of the States which would meet during Congress' seasonal adjournment), reads, in part:

> "The United States in Congress assembled shall have authority to … borrow money, or emit bills of credit of the United States."

The third pertinent passage of the **Ninth Article of Confederation** reads, in part:

> "The United States in Congress assembled shall never…coin money, nor regulate the value thereof…nor emit bills, nor borrow money on the credit of the United States…unless nine states assent to the same".

Fourthly, the **Twelfth Article of Confederation** reads, in part:

> "All bills of credit emitted, moneys borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the United States and the public faith are hereby solemnly pledged."

No other passages in the Articles of Confederation fundamentally dealt with money or money substitutes other than the striking of coin, the borrowing of money, or the emitting of bills of credit.

Let us concentrate first on the passage that "The United States in Congress assembled shall never …coin money…unless nine states assent to the same".

Recall that the Articles of Confederation first discussed "coin" with a regulated "alloy" which would be "struck" — here in this instance it now discusses "money" which would be "coined". "Money" is used as the noun in one situation; "coin" is used as the noun in another.

Coupling together these passages found within the same document shows that (under the Articles of Confederation, at least) the power to "strike coin" and the power to "coin money" are synonymous terms.

That the power to "strike coin" (with a specific "alloy" and regulated "value") and the power to "coin money" are used interchangeably within a single document does not bode well for a different meaning of the "Power…To coin Money" under the Constitution which was proposed just six years after the Articles were adopted, especially considering many of the very same

delegates who later proposed or ratified the Constitution originally drafted or approved the Articles.

Proponents of the theory that the power "To coin Money" under the Constitution includes the power to print and/or emit a paper currency would have to show how the power "To coin Money" under the Constitution is different from these same words used in the Articles where they were synonymous only with the power to strike coin and regulate the alloy of the coins which were struck.

Alternatively, both the borrowing of money and the emitting of bills of credit are listed separately in the Articles, apart not only from the coining of money (striking of coin) but also apart from one another.

The separate listing of the three separate powers (coining money, borrowing money, and emitting bills of credit) shows that each are distinct and separate and each must be specifically listed to be an authorized power (within a government of delegated power, anyway).

Before investigating further the power to strike coin and to coin money, it will prove helpful to first delve further into both the borrowing of money and the emission of bills of credit.

The **Ninth Article of Confederation** again pronounces, in part:

> "The United States in Congress assembled shall have authority to…to borrow money, or emit bills of credit of the United States".

The **Constitution** (in **Article I, Section 8, Clause 2**), however, only provides:

> "The Congress shall have Power…To borrow Money on the credit of the United States."

Conspicuously absent from the listing in the Constitution is the omission of the power of emission, of any reference anywhere therein of an explicit power of Congress to emit bills of credit (or any other term which could mean the power to print a paper currency).

The emission of bills of credit is a passage without much historical context today; it is a foreign concept and term of art which few Americans today well understand.

Emitting bills "of credit" obviously discusses the extension of "credit" to others, by the issuer of the bills.

Coined money depends little upon any future action to have value; the future value of bills of credit depends upon a whole host of factors which must be properly honored for them to end up actually having any value.

The borrowing of money and the emission of bills of credit are sufficiently similar that one will find these powers listed immediately adjacent to one another in each of the three times they were mentioned in the Articles of Confederation (twice in Article IX and once in Article XII).

Yet they are also sufficiently different that one will find them always separately listed, because one does not equate with the other.

Implicit in the phrase to borrow money, is that that money is already in existence. Indeed, the Constitution doesn't provide that Congress may borrow "value" or borrow "worth", only "money". Money, one is learning, is that coined (in the Constitution, under Article I, Section 8, Clause 5).

Borrowing money allows Congress to obtain money from willing lenders, so that Congress can go to variety of merchants with this borrowed money and then buy the various goods and services they deem necessary or expedient with this borrowed money.

The emission of bills of credit, conversely, acknowledges that something new is being created and this new thing is being "emitted" (issued, extended, produced, released, sent out, etc.).

Emitting bills of credit allows Congress to directly spend this paper currency they emit on the goods and services of willing merchants, without first borrowing money (the bills are ultimately meant to be "redeemed" in lawful money, of course).

In its most basic form, money borrowed by borrower "B" from creditor "C" means that capital belonging to "C" is merely transferred to "B". It is proper, of course, that such a transaction is written to provide physical evidence of the loan, where the written form can also detail therein the terms of the loan. The various written evidences of loans are termed "securities" in the Constitution (in Article I, Section 8, Clause 6).

"To borrow money" does not strictly involve the creation of money, it merely provides for a transfer.

Though the borrowing of money does involve the creation of the debt instruments which provide proof of the money-lending, these security instruments merely provide proper documentation for the existing money which has now been loaned to borrower "B" by creditor "C".

This does not mean, however, that certain aspects relative to money are not yet enhanced with the loaning of money and the creation of a given security document.

Sometimes loans are in such large amounts or in such cumbersome forms that they are not readily traded amongst investors, and thus are generally held in a safe place until redeemed.

When securities issued for proper evidence of borrowed money are in such form which allows for easy transfer between persons and/or entities, however, certain aspects of the supply of money (broadly defined) nevertheless yet grow, even if money (strictly defined) merely transfers between various persons or entities.

To the extent the securities given in loan enter somewhat into circulation where they are themselves traded amongst various creditors and debtors, however, the following example suffices to show the basic result.

Before a loan transpires, let's say creditor "C" has 160 dollars in silver coin, borrower "B" has no money but is honest and works very hard, and asset owner "A" has 160 apples (representing available goods). Thus, there are only 160 dollars in this small world of three persons.

Once creditor "C" loans to borrower "B" 60 silver dollars as "B" requests because he wants to buy some apples and "C" approves so he can put his money to work for him (so he perhaps doesn't have to), now borrower "B" has 60 of the silver dollars.

Creditor "C" not only has his remaining 100 dollars, but also he has received from borrower "B" a security for future repayment of the lent 60 silver dollars (plus interest).

Whereas there were once only 160 silver dollars, now there are yet the 160 silver dollars AND now a note worth 60 dollars, or 60 dollars worth of notes (owned by creditor "C" and due by borrower "B").

While these note dollars are not always necessarily as easily spent as the silver dollars (because some people question their future value and they may not be in convenient denominations, forms, etc.), the note dollars nevertheless will undoubtedly be accepted by some persons at least some of the time. Thus, the note dollars generally have some residual trade value (though perhaps not always their full $60 value which they were worth to creditor "C").

This residual value may thus be transferred by creditor "C" to other willing persons, perhaps asset owner "A", who may prefer to give up a few of his apples to "C" in partial exchange for some of the securities belonging to "C" so he has greater liquidity and diversity in his wealth.

Thus, these 160 silver dollars and the (perhaps discounted) 60 note dollars, for 220 dollars, total, are spread out over all the available goods and services in the economy of "A", "B", and "C" and prices will therefore adjust upward accordingly.

With 160 apples in this small economy before the loan occurred, the average price per apple was one dollar each.

Now, depending upon the discount of the 60 note dollars, perhaps upwards of 220 dollars now relate to these same 160 apples, for an average price after the loan of up to $1.38 each (to the extent that the silver dollars end up buying a greater than equal percentage, then the note dollars will actually end up only then buying proportionally less [and it would then take even more of the paper dollars to buy an apple]).

As one can see, increasing the number of claims to wealth, without a corresponding increase of wealth (without a similar growth in the number of apples), only corresponds to a higher price of each individual apple. This is but a monetary devaluation of those dollars, seen as a corresponding rise in price and commonly understood as price inflation (each dollar buying less than it did earlier).

The problem is that when people first have more money in their pocket, they tend to think they are richer than they were before the increase in available money occurred, because they think in terms of its earlier purchasing power (when the purchasing power of four of the dollars could obtain four apples in trade).

After the loan increased the supply of available money (broadly defined), however, now four dollars won't even purchase three apples (one would need another fourteen cents to get even three full apples).

Once individuals realize their dollars don't go as far as they used to, they will realize that they are not as well off as they first anticipated.

Hopefully they didn't buy on credit more than they could really afford when they incorrectly thought they were doing better.

However, even if they prudently saved their money, <u>their saved money yet lost its former purchasing power</u>. Every four dollars saved which previously bought four apples won't even now buy three — *so even prudent savers still lost much of the purchasing power of their saved money* (even if they hadn't yet spent it [actually, they may have been better off had they spent it early, before it lost purchasing power, so they could have purchased more apples]).

This is precisely why monetary devaluation is so harmful, as it robs the savings and productive capacity of any nation which tolerates it, impoverishing its citizens over time.

Loans do not necessarily cause the purchasing power of money to drop, as many loans are taken out to increase the productive output of a business and put more people to work creating new wealth. Thus, loans often put into the hands of those persons most productive the liquid capital they need to increase the productive output of the economy — to increase their wealth and thus the amount of wealth in their small world.

For example, if borrower "B" borrowed the 60 dollars from creditor "C" to plant more apple trees (or, better yet, pear trees, to add choice to the marketplace), then everyone may ultimately end up being better off than before.

Indeed, if "B" produces 80 pears from his 60-dollar loan, then the 220 dollars now correlate with 160 apples and 80 pears, or 240 items (or only $.92 per item on average, while now adding variety to the supply of available goods). Thus, one's saved money *in a productive economy* can buy even more in the future than it does at the present.

The principle most important to understand regarding securities which enter into common circulation, however, comes as they are paid off.

A security secures a debt only as long as it remains unpaid: once the debt is paid, however, the security is cancelled.

As the loan is paid down, the available supply of money (broadly defined to include note dollars) shrinks back toward only the true 160 silver dollar economy.

Thus, even as honest money of silver and gold coin is lent to others, prices will rise to the extent the security issued circulates with some of the attributes of money. Unfortunately, the attribute most missing with this security is that it does not have silver and gold's perpetual existence.

As loans are repaid and notes cancelled, note money evaporates back into the thin air from whence it came.

It should be here mentioned, of course, that goods neither typically have a perpetual endurance. While some goods typically have a long duration (houses, for example), others are much shorter (apples get eaten or tend to rot, for example).

In the real world, goods are consumed and new ones produced generally at fairly stable rates, tending to increase as man's productivity increases. Increasing production offsets increases in the supply of money.

Monetary stability with production increases means one's store of value will be worth more tomorrow, leading to savings becoming more valuable (thereby rewarding those who save).

Production increases which do not keep up with increases of money means one's store of value will be worth less tomorrow, leading to savings being robbed of their future purchasing power (penalizing those who save).

When savings are penalized, and people find their money bought more yesterday than it will tomorrow, do not expect the former (savings) but expect the latter (spending).

Americans spend their money as fast as they can to buy something today before it costs more tomorrow, and do not save, because our money supply (broadly defined) historically increases faster than does our productive capacity (as impressive as is that growth of capacity).

When loans have been paid down or off, there is a capability yet that this note money may again be lent back into circulation with new borrowing, but if too many debtors decide that repayment may be too difficult, or if too many creditors decide the chances of repayment are too slim, then the money supply (broadly defined) shrinks (back only to hard money, when it is available).

Of course, without hard money in circulation as is the case today, the boom and bust cycles deepen dramatically, and are much more unstable than they would be with hard money (for its counter-balancing or stabilizing effect, of always having perpetual endurance and inherent value).

Thus, as long as people, businesses and governments borrow money (even honest money of gold and silver coin) and the debt obligations circulate to some degree as currency, the economy will be exposed to some degree to the vicissitudes of business cycles. Thus booms and busts can happen even with hard money, anytime loan extension occurs at a varying degree, rather than even pace, any time those loan documents circulate to some extent as money.

Tight- or easy-money lending practices are thus self-fulfilling prophecies. To have a better idea of future supply of money (thus future demand, job stability, etc.), closely examine the current money lending practices. If the borrowing of money is easy today, expect the money supply to grow accordingly, but beware of going too far, for a bust may well be developing on the horizon.

Restrictions on money lending beget further monetary contraction and hardship until it swings improperly restrictive for too long a period. One day money lending can finally begin again growing anew, once the "pump" has been properly re-primed with those willing to take the greatest risks and begin loaning and borrowing again.

The power granted to Congress to borrow money is in actuality merely an authorization for them to do so. This power, by itself, does not guarantee that even one dollar would actually

ever be loaned (as the Continental and Confederate Congresses learned), for Congress must find willing participants to loan the government money.

Anyone today with even a passing familiarity with the United States' gargantuan federal debt should realize that Congress uses the power "to borrow money" quite extensively. So extensively, in fact, to provide compelling and even condemning evidence of a critical failure to pay appropriate attention the remainder of the Constitution that limits the scope of proper government activity.

That Congress have the power "to borrow money" comes but from the Constitution, the same document which grant the Congress other limited powers and which also places limits on them.

Congress may not "borrow money" except by the Constitution. To acknowledge this power of Congress is not to deny the others found within the same document. To acknowledge and exercise the power "to borrow money" is to acknowledge the other powers of Congress and to also acknowledge their limitations.

It is hypocrisy that those who push for ever-expanding government to pick and choose from which constitutional clauses they will concede and which they choose to ignore.

The acknowledgement that government even borrows money is a fissure in the dam of their often-professed omnipotence. If government is so powerful that they must go to the market with their hand out and beg for money much as any private individual or company easily demonstrates that government certainly cannot be as powerful as they oft' profess.

The government merely requests others to loan them money — for if the request was a forced exaction, it would be a tax, duty, impost or excise.

That the power to borrow money on the credit of the United States is listed in the Constitution is yet a further indirect admission of their actual limitation of their power to lay and collect taxes, duties, imposts and excises (Article I, Section 8, Clause 1).

If Congress could raise all the money they needed to meet the government's current and future expenses by taxes, duties, imposts and excises, then there would be no reason to go into debt to repay a liability out of future taxes, duties, imposts and excises.

In the borrowing of money, the government here bows to Murphy and his Golden Rule: he who has the gold makes the rules. One finds that the glitter of gold trumps even the guns of government (until use of those guns is at least threatened, anyway).

The greatest test of the need for borrowing money invariably comes from war. Every war has proven the practical necessity of such a power to borrow money to the extent of the severity and duration of the war (though realize the Mexican War of 1846 - 1848 was fought during the initial period of the Independent Treasury, where the government dealt with gold and silver coin and Treasury notes and there was very little debt associated with that successful war).

The successful outcome of many a war has been determined, not necessarily by the military might of the opponents, their resolve or even the justness of their cause, but by adequate

financial strength (thankfully, our country's own Revolutionary War experience proved a glowing exception to this rule). Military might wanes if not properly supported financially.

Of course, the continued need for further borrowing money time and again in times of peace (versus eventually finding economic security by living within one's means) is a sign of failure to maintain the proper limitations on government, as government attempts to become all things to all people.

The U.S. government's debt level today provides undeniable and conclusive evidence all by itself of a failure to maintain government within its constitutional bounds.

As mentioned previously, there must be written evidence that money has been loaned to government. **Article I, Section 8, Clause 6** of the Constitution touches on those written evidences of debt, there labeled as government *securities*, reading:

> "The Congress shall have Power…To provide for the Punishment of counterfeiting the Securities and current Coin of the United States."

The securities of the United States are those written documents which bear witness to money loaned to the United States; especially its amount, duration, interest rate, and repayment terms. The United States give financial securities to those persons, investment funds, foreign governments or other entities who loan them money. The actual security document given, such as stock certificates, bonds, or treasury notes, etc., depends upon the parameters of the particular agreements.

Securities, as proof of the loan and eventual repayment, are an asset of creditor. When their repayment is not questioned, securities can then serve one of the useful functions of money to at least some degree, in transferring of their worth from one person to another. As such, did the Articles and/or does the Constitution treat such securities within the definition of "money"? In a word, the answer is "no".

While evidences of debt may be quite effective in transferring the value they do hold at any given time, they are less effective for storing that value, as their future value is dependent upon a whole host of factors over which the government may not necessarily have control.

Money detailed in the Constitution is not merely a medium of exchange, however, nor even only a store of value, but is the actual standard established for value.

It is money's standard of value, its unchanging nature which debt instruments cannot mimic, which separates the two by a vast and impenetrable gulf.

Though the exchange relationship (purchasing power) of gold and silver between all other things naturally varies over time, the amount in the gold and silver in the monetary units themselves should not (i.e., the silver dollar of 371.25 grains of fine silver remains unchanged).

Gold and silver have established themselves throughout the world in every conceivable type of society for thousands of years, with no other items better meeting the qualifications for money.

Article I, Section 8, Clause 6

Article I, Section 8, Clause 6 details one of the three federal crimes (four, if one allows for impeachment of officers) listed under the Constitution (the other two are "Piracy and Felonies committed on the high Seas and Offenses against the law of Nations" under Article I, Section 8, Clause 10 and "Treason" under Article III, Section 3).

Congress shall have power "To provide for the Punishment of counterfeiting the Securities and current Coin of the United States" — one may notice that the counterfeiting of any "Security" is a crime, but only the counterfeiting of a "current" coin is punishable.

Counterfeiting a security is punishable at any time. Anyone who has paid off a promissory note at a bank knows that once the individual debt is paid, the individual note is cancelled and returned to the original debtor. If a security is paid off, then, it is cancelled and thus no longer "secures" any debt. A "cancelled Security" is a misnomer, for if it no longer secures anything, it is thus no longer a "Security".

The process for cancelling Continental Currency was detailed by the Confederation Congress on January 2, 1779, stating:

> "the…bills…(shall) be immediately crossed and struck through with a circular punch, of one inch diameter, to be afterwards examined and burned".
>
> Volume 13, Journals of the Continental Congress, Pages 21- 22

Even the particular occasion which detailed this cancellation process provides additional insight into emissions of paper money. The cancelling of the bills of credit emitted May 20, 1777 and April 11, 1778 was occasioned by:

> "counterfeits of those emissions have lately been issued by our enemies at New York…whereby individuals are defrauded, prices enhanced, and the credit of the paper currency greatly injured".
>
> *Ibid*.

It is interesting to note that when "more of the same" is performed but by one's "enemies" during time of war, that it was acknowledged that "individuals are defrauded, prices enhanced, and the credit of the paper currency greatly injured".

Unfortunately, the same could be said for the general action of carelessly emitting bills of credit by Congress more than they had ability to cover; i.e., that the damage occurring really didn't depend upon the party which carelessly emitted them.

Paper currency recklessly emitted is an "equal opportunity" destroyer of value, no matter the issuing party. More issuing parties really only ensure too much is emitted.

That excessive printing and disbursement of monetary notes of one's opponents within their borders has proven a successful tactic of war (so economic devastation aids military destruction) should give pause to recommending such a practice by one's own government in time of peace.

The securities of the United States are current until individually paid, at which time they become individually cancelled and are no longer a valid security representing unpaid debt.

Article I, Section 8, Clause 6 of the Constitution helps further prove that the only item to be held money by the Constitution is (gold and silver) coin.

Note that Article I, Section 8, Clause 6 specifically lists “Securities and current coin”. Both are listed because they are not synonymous terms. Securities are listed separately from coin because they are not the same thing.

Since “current coin” is not a commonly-used phrase, it is important to look into this matter further.

That there is such a thing as “current” coin of the United States acknowledges that there is such a thing as coin which is no longer “current” in the United States; which is obsolete. A coin which is no longer current is no longer “money” at its original, stated monetary value.

In other words, in the regulation of the value of coined money, Congress may from time to time change that value, if necessary, even to the extent that a coin struck under earlier coinage acts loses its original claim to a given, declared legal value (and is no longer “money” at money’s current valuation rates). Congress is empowered to change the standard of value from one to form to another.

A coin is said to be *current* when it is struck in accordance to coinage standards for weight, fineness and value that are then current, which are then in effect. The value of a coin struck under a prior standard becomes obsolete when a new standard has been accepted, essentially causing the coin to revert back to “mere merchandise”. Two dissimilar coins, one of a new standard and one of an old standard, need an exchange rate between the two to relate them one to another.

Further discussion of this seemingly-abstract subject will be deferred until discussion on the act of June 28, 1834, when Congress did just that (and, in explaining that act, the concept will more-easily be demonstrated). Suffice it to say at present that Congress may only punish the counterfeiting of “securities” and (current) “coin”.

Our main purpose for studying “current coin” found in Article I, Section 8, Clause 6 of the Constitution is really for comparisons with the Articles of Confederation.

Recall the earlier listing in one portion of the Articles of Confederation of “coins” (with an “alloy”) which were “struck” and another passage of “money” which would be “coined”; i.e., that the Articles used these nouns “coin” and “money” interchangeably.

Under the Constitution, we saw in Article I, Section 8, Clause 5 that Congress has the explicit, enumerated power “To coin Money” (“coin” there used as a verb and “money” as the noun).

The specific mention in Clause 5 of “(foreign) coin” (“coin” used here as a noun) was partially discounted as proof that the only money allowed by the Constitution was coin, because it was theoretically possible that Congress meant further restrictions on foreign money (to there [and only there] mean “coin”) than they meant for domestic money.

Now in the next clause, Clause 6, however, one may see that Congress may punish the counterfeiting of “current coin”.

With Clause 6 and its “current coin” wording, now “coin” is directly being used as the noun in the place of “money” that was “coined” in Clause 5 — thus, the Constitution likewise uses the nouns “money” and “coin” interchangeably, just like the Articles of Confederation.

Both the Articles of Confederation and the Constitution refer to “money” and “coin” interchangeably, helping to show that neither term would thus extend to paper claims to money.

That Congress may only punish the counterfeiting of “securities” and “current coin” helps clarify and show that “money” — constitutionally-speaking — is only coined.

At best, paper monetary claims could only be included under the term “Securities”.

Strict reading of the Articles and the Constitution do not allow the expansion of the definition of money beyond coin in either document, but that perhaps some type of paper currencies could possibly fit within the definition of “Securities” as loan documents (it would seem rather pointless to argue that Congress could print a paper currency but then wouldn’t be able to punish others who attempted to counterfeit it [i.e., that there would be a printed currency that wouldn’t fall within the definition of “Securities”]).

Under the Articles, the emission of bills of credit was discussed independently apart from the borrowing of money. These two powers, though somewhat similar in nature, were yet fully independent such that both had to be listed when both were allowed.

The striking of coin under the Articles was also discussed independently and separately from the borrowing of money and the emission of bills of credit. All three powers were expressly delegated when Congress was capable of exercising each of them.

Proponents of a theory that our present Congress may emit bills of credit or other currency under the term “Securities” have a few difficulties to overcome.

First is that if “Securities” naturally extended to bills of credit under the Constitution, what was the reason that the power to emit them under the Articles was expressly mentioned therein (three times, no less), but not once under the Constitution?

After all, the Articles were ratified just six years before the Constitution was proposed and eight years before the Constitution was ratified.

If the power to borrow money had naturally included the power to emit bills, the Confederation Congress could have simply emitted the bills under the authority to borrow money and issued them as a security and there would have been no need that the power be expressed.

Article XII of the **Articles of Confederation** helps further show that “securities” in the era around the time of ratification of the Constitution would not inherently extend to bills of credit (without such bills being specifically authorized therein), reading:

> “All bills of credit emitted, moneys borrowed and debts contracted by, or under the authority of Congress...shall be deemed and considered as a charge against the United States...”

“Bills of credit emitted” are sufficiently akin to “moneys borrowed” and “debts contracted” to the extent that each “shall be deemed and considered as a charge against the

United States", yet sufficiently different enough that they each must be specifically listed by themselves.

Even though the Articles empowered the earlier Congress to emit bills of credit out of thin air, the bills earlier emitted yet proved wholly insufficient to meet the true financial needs of the States united, to such great extent, in fact, that a whole new form of government was created.

Indeed, the Articles were abandoned precisely because they proved inadequate to the task of raising sufficient funds to meet the financial obligations of the member States united together.

These earlier bills of credit emitted in great quantity simply became worth less the more they were emitted, to the point where they actually became worthless.

The power to emit bills of credit, even where the power had been explicitly allowed, did not actually empower the Continental (or Confederation) Congress with any true authority to actually make them have a value, let alone allow them to be established as the standard of (objective, unchanging) value.

Indeed, the whole experience of emitting the bills of credit by the Second Continental Congress proved Congress were wholly unable to maintain the bill's stated value, even though they were actually authorized to emit them (under the Articles, anyway).

It would be beyond credibility to propose just a few years later, while the earlier emitted bills yet had no specie value whatsoever, that the new Congress under the new Constitution could emit new bills of credit which would then serve as the new standard of value which was required of the money they would coin.

Likewise, even though the Congress under the Articles were empowered to borrow money, they had no real ability to actually borrow any as there were simply an insufficient number of persons, entities, and foreign governments willing to assume the risk of loss to provide the Congress with needed funds, even (or especially) in a Congress which had power to print bills of credit at will.

Even though the Congress meeting under the Articles were empowered to assign to the member States their proportionate share of common expenses (to be raised by the member States by State authority to levy taxes upon their citizens and then sent to the common treasury), the member States yet failed to consistently and adequately lay and collect sufficient funds to actually be sent to the common treasury.

It was not until the Articles were scrapped and a Constitution ratified where the power to lay and collect taxes, duties, imposts and excises was specifically provided did the Union of States finally come into their own financially and begin meeting their common obligations.

It is therefore the power to lay and collect taxes, duties, imposts and excises which ultimately gave Congress the actual means to borrow money, and then the Congress no longer needed the power to emit bills of credit, a power which had just proved to be worth but a temporary expediency, without any lasting merit.

It is the power to lay and collect taxes, duties, imposts and excises which ultimately gave Congress the means to actually borrow money. The ability to borrow money is dependent upon sufficient stable income, even with government.

It was only the Constitutional power to lay and collect taxes, duties, imposts and excises under a new form of government which later resurrected the worthless unremitted bills of credit from their financial grave and finally remitted them, at one penny on the dollar (see Section 3 of the act of August 4, 1790 [I Stat 138] and Section 4 of the act of August 5, 1790 [I Stat. 178] regarding post-1780 State bills).

Those proponents of a theory that the Congress under the Constitution may exercise a power not delineated are, in effect, arguing for a type of document wholly different from the Constitution and the Articles. These proponents are arguing that the Constitution created a government of its own discretion, which may do anything other than what was specifically prohibited.

If the Congress under the Articles could have likewise done anything other than what was explicitly prohibited, then that Congress could have assumed power on their own and simply began the laying and collecting of taxes, duties, imposts, and/or excises.

And if Congress under the Articles could have gained any true lasting benefit from the ability to emit bills of credit, surely that Congress would have continued to use this express power, such that a new form of government wouldn't have been necessary.

That this new power to lay and collect taxes, duties, imposts and excises had to be specifically and formally proposed, debated, and ratified individually by each State (in a new document, no less) helps prove that in organic American documents organizing common government under the principles established by the Declaration of Independence, that such powers as wished to be exercised must be specifically enumerated and thereby allowed.

Those who would argue that the Constitution and Articles come from such different points (one allowing all power except what specifically prohibited, the other enumerating the powers allowed) must look to the remarkably-similar wording of each and point out their supposed vast differences which would allow in one an omnipotent ability which was denied the other.

The two forms of government are different, of course, while the Constitution generally authorizes greater powers over the Articles of Confederation. However, regarding money, the Constitution actually authorizes fewer powers than that allowed under the Articles.

In the Twelfth of the Articles, bills of credit were very clearly declared to be "a charge against the United States", charges for which "the faith of the United States" was solemnly pledged for their "payment and satisfaction".

Such a similar statement is conspicuously absent from the Constitution, nowhere in the Constitution does it state that bills of credit emitted by Congress are a charge against the United States.

Bills of credit are a debt—they are not a standard of value.

Money is that given to satisfy debts. Money is used to satisfy bills of credit and other debts which were a "charge against the United States".

Bills of credit are a liability to be ultimately redeemed (satisfied) with the payment of money, they are not themselves money (even if they have some of the characteristics of money, that they may transfer any value they happen to have between willing parties).

Nowhere in the Articles or the Constitution does either allude to coins struck or money coined likewise being "a charge against the United States", nor is such a theory even espoused by any known individual.

Nowhere in the Constitution is there a similar statement that bills of credit (or any other phrase meaning or which could mean a printed paper currency) issued under the Constitution are a "charge against the United States", because our Congress acting for all the States have no such express power to emit bills of credit (it should be noted that money is borrowed "on the credit of the United States", acknowledging therein that borrowed money is thus a charge).

The absence of a similar statement that bills of credit issued by Congress under the Constitution are a charge against the United States helps prove that Congress may not emit them (unless proponents of such a theory would charge that Congress may emit them, but have no obligation to ultimately remit them).

It is perhaps but historical irony that bills of credit earlier emitted did actually represented a valid debt of the United States under the Constitution (at least to the extent such bills were "as valid" against the United States under the Constitution as they were valid under the Confederation).

It should be noted that **Article VI, Clause 1** of the Constitution reads:

> "All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation".

The Continental Currency emitted by the colonies and young States were emitted by the Second Continental Congress from 1775 until 1779 (and a few *new tenor* bills in 1780); they were not actually emitted after full ratification of the Articles of Confederation (though the Second Continental Congress tended to follow the outline of the Articles which were proposed in 1777 even before they were finally ratified in 1781).

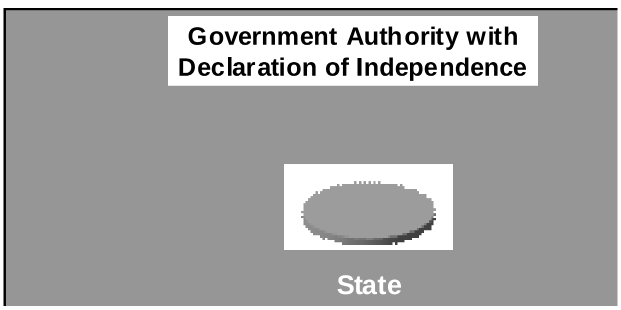
Nevertheless, the Continental bills of credit were a charge against the Congress meeting under the Articles, by way of express wording of the **Twelfth Article of Confederation**, which again reads:

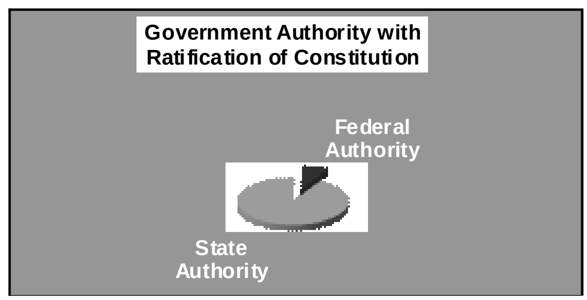
> "All bills of credit emitted, moneys borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the United States and the public faith are hereby solemnly pledged."

Thus, because of these two passages in different foundational documents, the bills of credit and other debts incurred under the Second Continental Congress and the debts incurred under the Congress meeting under the Articles of Confederation were all debts to which the United States meeting under the Constitution became obligated.

This acknowledgement of prior debts thus placed upon the Congress under the Constitution the burden to honor the bills earlier emitted (at least to the extent as such bills were "valid" against the Congress under the Confederation), even though Congress under the Constitution are not themselves empowered to emit bills of credit.

With ratification of the Constitution, it must be understood that the governmental "pie" of power was divided into State and Federal portions. The States, when they ratified the Constitution, individually decided to take the slices of pie (as expressed in the Constitution) and give them over to the States united for their mutual benefit, the United States of America.





One of the slices of pie given over to the States united together in common union was the power to coin money. Under the Articles, the States had reserved their independent power to strike their own coin according to Congress' uniform Standard. Under the Constitution, however, the States voluntarily relinquished this power.

That the Constitution of enumerated powers does NOT mention that Congress have the express power to emit bills of credit does not bode well for the proponents of an authority of Congress in emitting bills of credit under the Constitution.

The Constitution does once mention the emission of bills of credit. **Article I, Section 10, Clause 1** details that:

> "No State shall…coin Money, emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts…"

The States are herein expressly prohibited from emitting bills of credit or coining their own money.

Clause 1 of Section 10 of the First Article also declares that the only "Thing" capable of being declared by States a "Tender in Payment of Debts" is only gold and silver coin.

These words detail that henceforth the only legal tender money would be only gold and silver coin.

That only gold and silver coin may be a tender in the payment of debts is fully consistent with the remainder of the constitutional clauses on money being gold and silver coin.

Proponents of a paper currency as a tender correctly point out that these limitations in Article I, Section 10 pertain only to the States, and not to Congress.

They also again correctly point out that there is no similar express wording in the Constitution prohibiting Congress from declaring "any Thing but gold and silver Coin a Tender in Payment of Debts".

However, if proponents of a paper currency thereby imply that Congress have a power to declare items *other than gold and silver coin* a tender in the payment of debts, they are sadly mistaken.

First off, it must be clearly understood that Congress neither have any express authority to declare even gold and silver coin a tender in payment of debts. Nowhere in the Constitution does it explicitly or ever provide that Congress may declare anything a tender, even gold and silver coin.

The only place the Constitution expressly provides for a declaration of a tender in payment of debts is in Article I, Section 10, Clause 1, and this pertains only to the States. In providing that no State shall declare anything other than gold and silver coin a tender in payment of debts, these words directly acknowledge that the States retain the power to make declarations that gold and silver coin are a tender in payment of debts.

Only the individual States are explicitly empowered to declare the tender in payment of debts, and that only of gold and silver coin.

Article I, Section 8, Clause 5 expressly provides that Congress may coin money and that Congress may regulate the value of the money they coin, and they may regulate the American value of foreign (gold and silver) coin (made current in the United States as money).

Thus, Congress may strike a coin of 371.25 grains of fine silver and declare it to be and have the value of a "dollar" or a coin of 247.5 grains of fine gold and declare this eagle coin to have the value of "ten dollars" (this author however argues elsewhere against the short-sighted wisdom of declaring coins of two differing metals having fixed values one to another).

Of course, any contract which specifies payment only in "dollars" would thus necessarily be payable only said silver dollars and/or in gold eagles valued at so many dollars, since those are precisely what are legally defined as a dollar or what are worth so many dollars in the monetary acts.

A tender is that which may be lawfully used to pay and discharge a debt. Dollars are the tender for all debts payable in dollars, whether or not those dollars are legally declared a tender.

In other words, the only de facto tender for payment of a debt due in dollars is dollars, even if they are not declared a tender de jure, by any law (State or federal).

The rub, of course, therein lies with the definition of "dollar". Providing a proper legal definition of "dollar" is what much of this book is all about, so readers may become comfortable with knowing that the dollar of the United States of America is only gold or silver coin of specified weight and fineness (while yet arguing that it really should be only one of the metals).

The inevitable effect of Congress' power of regulating the value of the money they coin (or of regulating the American value of foreign coin) is therefore essentially equivalent of Congress establishing a legal tender, even if they don't have this express power.

Given that the effect of Congress coining dollars so named *and regulating their value* is that these coins are a tender-in-fact for all debts denominated in said named dollars, that they actually be declared by Congress a tender would be, at worst, an implied means to an allowed end.

Regulating the value of the coins would certainly seem to allow a formal declaration of their value or worth. A tender law would merely provide this value to be more-formally recognized between debtor and creditor for all payment of dollars.

At best, the Constitution only allows Congress to coin money and regulate its legal value (and regulate the legal American value of foreign gold and silver coin) and only allows the States to make gold and silver coin a lawful tender in payment of debts.

At worst, in regulating the value of the coins they strike of gold and silver, and in regulating the American value of foreign gold and silver coins, Congress may also declare the said gold and silver coins a legal or lawful tender (to which the States may also declare).

That Congress regulates the value of gold and silver coin and may perhaps declare them to be a legal tender does not in any way, however, equate with Congress having an express or even implied power to make declarations of legal tender of whatever they choose, of things other than gold and silver coin.

The implied means to carry out an approved end does not allow them to use the same means (the declaration of legal tender) to seek an unapproved end (such as declaring paper currency a legal tender).

In other words, at best Congress may not declare anything a legal tender. At worst, neither may Congress declare anything other than gold and silver coins to be a tender in payment of debts in the United States of America.

A further inspection of this important principle is warranted due to the extreme consequences of naming something unapproved a tender and using the force of law on creditors against their wishes (keeping creditors from providing their own valuations of those non-gold or non-silver things tendered in payment).

Earlier it was shown herein that only gold and silver coin were considered by the Constitution to be money, whether of domestic or foreign manufacture (including foreign gold or

silver coin when it was made current in the United States as money by Congress [more on this in Chapter 8]).

Also covered earlier (and as more will be covered later) was the fact that government securities were issued by Congress under the express power to borrow money. The most convenient of government securities allow relative ease in exchanging whatever value remains in those securities between various persons, answering some of the useful benefits of money as a medium of exchange.

It is critical to realize that while Congress have the ability to regulate the value of the money they coin and the ability to regulate the American value of foreign coin brought into the country for use as American money, Congress have no ability whatsoever to regulate the value of the money they *borrow*.

Congress may borrow money, but they may not regulate the value of that borrowed money (at least directly, apart from regulations of all coined money or foreign coin).

It follows then that neither may Congress regulate the value of securities issued on the money they borrow (other than to correctly specify the appropriate denomination of the security dependent upon the amount of money borrowed, reflective of interest due [i.e., a $1,000 bond, etc.]).

Since Congress may not regulate the value of securities they provide during the course of borrowing the money they desire, this bars the door from declaring these securities a tender in payment of debts, even indirectly, within the United States of America.

The declaration of tender, if Congress have this authority, would perhaps be an extension of the power to regulate money, rather than the power to coin money. That Congress may only borrow money but not regulate the value of the borrowed money thus forecloses Congress from making securities given in evidence of debts an actual tender for debt.

While Congress may choose from among many varied means while pursuing allowable ends, no means are allowed for unapproved ends. Congress only have discretion where they have delegated power.

This perhaps would not prevent Congress from making the securities receivable in payment owed the government (taxes, duties, imposts, excises, etc.), for a debt owed by "A" payable by "B" would certainly seem appropriate to cancel out a debt owed by "B" and payable to "A", but it is another power entirely for Congress to attempt to foist (under guise of tender laws) these debt instruments on others persons who would not otherwise choose to accept them (at least at any other person's valuation of those securities).

That Congress under the Constitution have no express ability to declare anything a tender was no different than Congress under the Confederation, even though that earlier Congress also had the express ability to emit bills of credit.

This was because neither in the Articles were Congress there empowered to regulate the value of money they borrowed or regulate the value of bills they emitted (other than properly signify a face value); they were only empowered to regulate the value of the coins they struck.

As Congress under the Articles never actually coined any money, we can't compare coinage under the Articles with that under the Constitution. However, it is interesting to compare the recommendations for States tender laws for the bills of credit "under" the Articles with that supposed power of Congress under the Constitution.

Whereas the Second Continental Congress neither had the express authority to make the bills of credit they emitted a legal tender, they nevertheless expressly requested the States to declare them a tender, as these States thus exercised that residual government power at that time.

The Second Continental Congress issued several resolves designed to bolster support for their bills of credit, including calling people refusing to accept them at par value "enemies of American liberty" while even recommending confiscation of all assets bought and sold with such "improperly" discounted bills.

The Second Continental Congress' January 14, 1777 resolve did even more than this, however, reading, in part:

> "Whereas the continental money ought to be supported, at the full value expressed in the respective bills…and the pernicious artifices of the enemies of American liberty to impair the credit of the said bills…ought to be guarded against and prevented…"
>
> "*Resolved*, That all bills of credit, emitted by the authority of Congress, ought to pass current in all payments…
>
> "And it is recommended to the legislatures of the respective States, to enact laws inflicting such forfeitures and other penalties on offenders as aforesaid, as will prevent such pernicious practices:
>
> "That it be recommended to the legislatures of the united States, to pass laws to make the bills of credit, issued by the Congress, a lawful tender, in payment of public and private debts".
>
> Volume 7, Journals of the Continental Congress, Page 33 @ 35 - 36

As one can plainly read, Congress wasn't doing anything but recommending action to the separate State legislatures. Congress didn't enact forfeiture laws, but "recommended to the legislatures of the respective States" that the States do so.

The Congress didn't "support" the Continental money, but stated that the money "ought to be supported" (by merchants, etc.) and stated the discounting "ought to be guarded against and prevented" (by the States).

Most importantly for our current interest is that Congress "recommended to the legislatures of the united States, to pass laws to make the bills of credit, issued by the Congress, a *lawful tender*, in payment of public and private debts".

When Congress writes "legislatures of the united States", they were referring to the separate State legislatures (thus the plurality of "legislatures").

Therefore, Congress asked the individual State legislatures to make the Continental Currency lawful tender in payments of debts within their respective States. Congress never

attempted to make the paper currency they emitted a tender themselves, obviously because they weren't so empowered (even though they were expressly empowered to emit the bills).

It is interesting to note that by 1781, however, Congress under the Articles of Confederation finally realized the futility of their whole foolish charade respecting paper money, and backpedalled furiously from their earlier shameful attempts to support the unsupportable.

On May 22, 1781, they resolved that the whole debts of currency already due by the United States be "liquidated as soon as may be to their specie value" and funded, if agreeable to the creditors, as a loan upon interest.

In an eye-raising admission rarely admitted by Congress, they next made the following resolution (shown in draft-form to further illuminate the progression of their reflective thoughts):

> "That experience having evinced the inefficacy ~~and futility~~ of all attempts to support the credit of paper money by ~~arbitrary~~ [compulsory] acts, ~~it is expected they will no longer deceive themselves and embarrass public measures by continuing their tender laws~~ [it is recommended to such states, where laws making paper bills a legal tender yet exist, to repeal the same:]."*
>
> Volume 20, Journals of the Continental Congress, Page 524
>
> *Note: ~~Strikethrough~~ is the deletion of words of a prior draft; words within [parentheses] are added since the prior draft. The final resolution removes stricken words and removes parentheses.

It was the States who declared the bills of credit emitted by the early Congress to be a legal tender, not Congress. Congress first recommended the States enact legal tender laws of Congress' bills of credit, and Congress later recommended to the States repeal of their State tender laws for federal bills of credit.

Of course, just because the Confederation Congress couldn't declare a paper currency a tender (even where their emission was explicitly authorized) does not necessarily mean that Congress under the Constitution cannot, since the two documents do differ.

However, Congress under the Articles were clearly delegated the express power to emit bills of credit and Congress under the Constitution clearly do not have this power expressly delegated.

To argue now that the Congress which were <u>not</u> expressly delegated the power to emit bills of credit may emit them and then declare them a tender is an odd argument indeed. Proponents of such a power must come up with their rationale, as this author can scarcely fathom what it would be (other than as follows).

Modern-day proponents of a current power of Congress to emit a paper currency correctly point out there is no express prohibition to Congress emitting bills of credit as was provided against the States in Article I, Section 10, Clause 1.

Of course, since the States had earlier exercised the power of declaring different things a legal tender (such as tobacco), to prevent them from doing what they had done before, it was necessary that an express prohibition be expressed to withdraw one of their powers.

The governing power of the United States is wholly different than the governing power of the individual States, of course. The 10th Amendments admits that the United States have only delegated power. However, to the States are reserved all other powers appropriate of American government (with that power inappropriate of American government reserved unto the people), other than those which were transferred over to the United States or prohibited the States by the Constitution (such as the power to declare things other than gold and silver a tender).

This author admits that having the same words (prohibiting the emission of bills of credit, while restricting tender to gold and silver coin) that were used against the States in Article I, Section 10 again listed in Section 9 (or elsewhere) against Congress would be of great assistance today in an era where the general populace is ignorant of Constitutional principles.

Such express prohibitions against Congress would today silence discussion about the possibility of a tender other than gold and silver coin. It would have prevented the use of legal tender securities such as gold and silver certificates, United States notes, Treasury notes, and Federal Reserve notes, etc. It would have changed monetary history as it has been known since the Civil War era, thus likely changing history itself (not only for the United States, but inevitably impacting the world).

Even with such important considerations, however, this does not mean that it would have been wise or prudent for the framers of the Constitution to have actually inserted such a prohibitive statement with regards to the United States, however.

Those who declare that Congress may do whatever isn't specifically prohibited argue for a completely contrary nature of the Constitution, i.e., that Congress have *inherent* powers upon which *they* may decide. This is a very dangerous road to traverse, one the early founders correctly knew wise not to even start down.

That this seems to be a winning argument today simply shows our constitutional ignorance!

In these proponent's eyes, the Constitution is not therefore a document creating a new government and then conferring this new government express and limited powers, but a document written to specifically deny certain powers, with the government created under it holding all political power other than that which was denied. They argue the very opposite nature as what was actually created, and for an all-powerful government.

This gap in constitutional logic creates no apparent problems for such people and best shows the twisted thoughts which yet again leave the government putting into practice actions and activities which were diametrically opposed to its original purpose.

Proponents of Congress being able to do anything except that expressly prohibited support a type of government wholly different than that enacted.

The extreme danger with such a type of government is that any list of explicitly-prohibited powers would need to be very precise and quite exhaustive and perhaps must even foretell the future.

Much better is it to only provide express powers which are specifically allowed and thereby foreclose all other powers, leaving the power of amendment to deal with any future issues which should develop and which may then become necessary and proper.

This being the case, it is important to examine the Article I, Section 9 restrictions upon Congress to which proponents of such a theory may refer.

Close study of Section 9 however will reveal that each of the clauses therein listed contain particular exceptions to express powers elsewhere explicitly granted, rather than restrictions upon general powers (which were never given).

For example, Congress are expressly provided the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes" in Article I, Section 8, Clause 3.

By this express power, Congress may enact wide regulations, including such non-intercourse laws as enacted on March 1, 1809 (2 Stat. 528), or embargoes as enacted April 14, 1812 (2 Stat. 707), prohibiting importation or exportation in certain instances. Such restrictions are especially common in war, preventing "trading with the enemy" (remember, "Treason" against the United States is "levying War against them, or in adhering to their Enemies, *giving them Aid and Comfort*"; trading with the enemy certainly aids their cause by giving them needed supplies).

By this third clause of Section 8 — but for Article I, Section 9, Clause 1 — Congress would have had the power to prohibit further importation of slaves into the United States.

As it was, because of the first clause of Section 9, Congress was prohibited from enacting any regulation (i.e., restriction) of the foreign slave trade into the U.S. prior to 1808 (when slave importation was then made unlawful and prohibited [2, Stat. 426], and was made an act of piracy punishable by death in 1820 [3 Stat. 600]).

Thus, Article I, Section 9, Clause 1 was but a specific exemption from an express power of Congress elsewhere in the Constitution granted (unfortunately added to the Constitution by the clout of the Southern, pro-slavery States).

It should be noted today that we don't need to necessarily agree with every express power, nor every exemption to any express power, but that doesn't mean we shouldn't understand the principles involved to best learn what is allowed and what is prohibited.

The remainder of the Article I, Section 9 prohibitions likewise provides specific exceptions to particular rules elsewhere granted. These exceptions were necessary to exempt from regulation things otherwise allowed to be regulated but which weren't meant to be included in the specific excepted case. They were specific restrictions on government power which was otherwise provided.

Supporters of government except by prohibition may also perhaps point to our bill of rights as a list of prohibitions.

Perhaps Alexander Hamilton, no real proponent of limited government himself, provided the best answer to this line of thought when he wrote responding to the objection that there was

no Bill of Rights in the Constitution as originally presented. Hamilton wrote (in ***The Federalist*, *No.* 84**):

> "They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power. They might urge with a semblance of reason, the constitution ought not to be charged with the absurdity of providing against the abuse of an authority, which was not given."

During State ratification debates of the proposed U.S. Constitution, delegates of many different state convention had expressed a strong desire (in the words of the Preamble to the Bill of Rights) "in order to prevent misconstruction or abuse of its powers", that further "declaratory and restrictive clauses should be added" to the proposed Constitution.

Thus a Bill of Rights was proposed in the First Congress in 1789 and ratified by the States in 1791 precisely because of men's severe distrust of the usurping nature of governmental power, upon which logic is seldom relied, and they demanded some express prohibitions nevertheless, even if this was a dangerous road to traverse.

That the express prohibition of emitting bills of credit or making things other than gold and silver coin a tender in payment of debts by Congress were not here listed in the Bill of Rights perhaps then provides evidence that Congress and the ratifying conventions didn't think much danger then existed, that it wasn't likely such powers would ever be attempted.

At that time, because there was no express authority to emit bills of credit and because constitutional understanding was then much more pervasive, there was then little threat that Congress would attempt to emit legal tender bills of credit (which history would prove would not be emitted for another three generations, until the Civil War period [well after the generation after the generation which ratified the Constitution had passed away]).

As Hamilton alluded above, the insertions of negative restrictions upon Congress would provide clever and devious men with perhaps a reasonable pretext to argue that Congress would have *implied* general powers (this, however, didn't stop Hamilton from later using exactly this type of argument [*after* the Constitution had been ratified] in support of Congress establishing the bank of the United States).

Another line of reasoning that the power to emit bills of credit weren't expressly prohibited to Congress like it was to the States was provided during the Constitutional Convention by Maryland delegate John Mercer.

Mr. Mercer first readily admitted "he was a friend to paper money". Even so, he nevertheless stated at that time that he "should neither propose nor approve of such a measure" as

empowering Congress with the power to emit bills of credit, given the "present state and temper of America".

Madison further writes that Mr. Mercer was yet "opposed to a prohibition of it altogether" because such an express prohibition would:

> "stamp suspicion on the government, to deny it a discretion on this point. It was impolitic also, to excite the opposition of all those who were friends to paper money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of citizens".
>
> Volume 5, Elliott's Debates, Page 435

Thus, rather than rub salt in the wound of those who favored paper money (by expressly prohibiting the power to emit bills of credit to Congress where they could clearly see it expressly prohibited), it was better to merely strike out the words.

Perhaps Mr. Mercer knew that by failing to provide an express prohibition at the onset, that such a power would come to be used at some point in the distant future.

One must today realize that the Constitution is yet a politically-created document. Just as there were both proponents and opponents of slavery, so too were there proponents and opponents of a paper currency.

The Constitution was not perfect, but provided for the power of future amendment to later make it (and the union established under it) more perfect.

There is no similar wording in any clause explicitly prohibiting the emission of federal bills of credit or denying Congress the power to make anything but gold or silver coin a tender because Congress only have specified powers given to them, and the ability to make anything money other than coin was not authorized.

The constitutional convention delegates knew it redundant to declare this so. They perhaps erred in believing that a significant number of their posterity would understand constitutional principles as did they and their contemporaries. What was obvious to them is no longer apparent to us.

A look into how Article I, Section 8, Clause 5 was proposed during the Constitutional Convention, and its subsequent discussion during the convention debates, helps to clarify further Congress' power in money matters.

James Madison, writing in his *Notes of the Debates in the Federal Convention of 1787*, details important daily topics of discussion by the convention delegates, of which he was one (he is often today referred to as the "father" of the Constitution).

On Monday, August 6, 1787, the Constitutional Convention delegates began reviewing and voting on every word found in the first draft of the proposed Constitution which had been assembled to date, upon which the various committee delegates had been working on since May 25th.

Article VII of the draft was the precursor to what became Article I, Section 8. The proposal initially listed that:

> "Legislature of the United States shall have the power…
>
> "To coin money…
>
> "To regulate the value of foreign coin…
>
> "To fix the standards of weights and measures...
>
> "To borrow money, and emit bills on the credit of the United States…"

Of great and significant interest was that the proposed power to emit bills of credit was initially proposed to be extended to the new Congress under the developing Constitution.

The borrowing of money and the emission of bills of credit were again listed separately from each other, and separately from the power to coin money, in that they are all different powers (just as with the Articles of Confederation).

On Thursday, **August 16th**, the convention delegates discussed proposed Article VII. Madison writes:

> "Mr. Gouverneur Morris moved to strike out '*and emit bills on the credit of the United States*'."

Madison noted that **Morris** further stated:

> "If the United States had credit such bills would be unnecessary: if they had not, unjust and useless."

A thorough discussion ensued in the convention about the pros and cons of paper money.

James Madison asked, within the convention:

> "Will it not be sufficient to prohibit the making them a *tender*? This will remove the temptation to emit them with unjust views. And promissory notes in that shape may in some emergencies be best."

In full support of the earlier-mentioned principle that Congress only have powers listed, Madison writes that **George Mason** commented:

> "Congress would not have the power unless it were expressed."

Madison also writes that **Mason**:

> "Had a moral hatred to paper money, yet as he could not foresee all emergencies, he was unwilling to tie the hands of the Legislature."

Madison writes that **Oliver Elseworth** stated that he:

> "Thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made, were now fresh in the public mind and had excited the disgust of all the respectable part of America. By withholding the power from the new Government more friends of influence would be gained to it than by almost any thing else. Paper

money can in no case be necessary. Give the Government credit, and other resources will offer. The power may do harm, never good."

Madison writes that **James Wilson** stated:

"It will have a most salutary influence on the credit of the United States to remove the possibility of paper money. This expedient can never succeed whilst its mischiefs are remembered, and as long as it can be resorted to, it will be a bar to other resources."

Madison writes that **Pierce Butler**:

"Remarked that paper was a legal tender in no Country in Europe. He was urgent for disarming the Government of such a power."

Madison notes that **George Read**:

"Thought the words, if not struck out, would be as alarming as the mark of the Beast in Revelations."

And finally, Madison writes that **Mr. Langdon** stated that he:

"Would rather reject the whole plan than retain the three words, '*and emit bills*'."

Volume 5, Elliott's Debates, Pages 434 & 435

On the motion for striking out the wording "and emit bills on the credit of the United States", nine States (New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia) voted in the affirmative, thereby deleting these proposed words from the Constitution.

Only New Jersey and Maryland voted to retain it (Rhode Island didn't send delegates to the convention and New York was no longer present at the convention [though Alexander Hamilton remained after fellow New York delegates Robert Yates and John Lansing, Jr. left the convention on July 10, 1789 {because in creating a draft of the Constitution, they realized the delegates went too far beyond what they were specifically empowered to do, which was merely to *revise* the Articles of Confederation}]).

Though the power to emit bills of credit was listed in the original draft of the proposed Constitution, this power was thoroughly discussed and purposely removed from the Constitution.

The power to emit bills of credit is not an express power delegated to the United States by the Constitution.

On **August 28th**, the convention delegates discussed the proposed article which later became Article I, Section 10, Clause 1, on absolute prohibitions on the States (whereas Clause 2 discussed prohibitions without approval of Congress). Madison writes:

"Mr. Wilson & Mr. Sherman moved to insert after the words "coin money" the words "nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts" making these prohibitions absolute, instead of making the measures allowable (as in the XIII art:) with the consent of the Legislature of the U. S.

"Mr. Ghorum thought the purpose would be as well secured by the provision of art: XIII which makes the consent of the Genl. Legislature necessary, and that in that mode, no opposition would be excited; whereas an absolute prohibition of paper money would rouse the most desperate opposition from its partizans—

"Mr. Sherman thought this a favorable crisis for crushing paper money."

These words "nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts" were approved, and the Constitution now provides such restrictions against the States at all times.

James Madison later writes, in ***The Federalist* #44**:

"The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice, and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace, from the pestilent effects of paper money…constitutes an enormous debt against the States chargeable with this unadvisable measure…which can be expatiated not otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it."

Luther Martin commented:

"A majority of the convention, being wise beyond every event, and being willing to risque any political evil rather than admit the idea of a paper emission, in any possible case, refused to trust this authority to a government…and they erased that clause from the system."

Secret Proceedings and Debates of the Convention Assembled at Philadelphia, in the year 1787, for the purpose of forming the Constitution of the United States of America...Senate Document #728, 60th Congress, 2nd Session, Page 40. 1909.

The "favorable crisis" resulting from the total loss of purchasing power of the earlier-emitted Continental Currency, proved sufficient for "crushing paper money" issuance by both the State and U.S. governments, and the proposed power was "erased...from the system".

The debate over extending the power to emit bills of credit to Congress did not survive the delegate's discussion and this power was and is therefore denied to Congress.

The emission of bills of credit were expressly prohibited the States and the Congress of limited powers was not given the enumerated power.

That such a fearsome power, fresh in the delegate's minds, with the ability to cause such economic devastation, isn't specifically listed in the Constitution of enumerated powers as an allowed power should cause the proponents of such a power to shrink back to the cave from whence they came.

The convention delegates learned from the mistakes of the Continental Congress with wanton issuance of bills of credit, and refused to grant this authority to the new Congress.

The power to emit bills of credit is not a subset of some other power (which is why it was thrice listed in the Articles), thus it would have been inappropriate to expressly prohibit this

power in Article I, Section 9 (without going down the road of prohibiting general powers, making sure every necessary prohibition was listed).

As covered in this chapter thus far, Congress under the Constitution only have the power to strike coin as money, declare a foreign coin of silver or gold current as money, regulate the value of coined money, and to borrow money. Congress have no power to print money, issue printed money, regulate the value of borrowed money or emit bills of credit for the United States of America.

Again, as the States were historically empowered with making any number of things a tender in payment of debts, it was necessary in Article I, Section 10, Clause 1 to expressly prohibit the States from declaring "any Thing" a tender in payment of debts besides gold and silver coin.

The only "Things" capable of being declared a "Tender in Payment of Debts" in the United States of America today are gold and silver coin.

Looking at the whole of Clause 5 provides us with even further aid in determining whether coined money could include a paper currency.

Article I, Section 8, Clause 5 reads:

> "The Congress shall have Power...To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

If one proposes for Congress to regulate the value of printed currency within a system of verifiable, objective standards which the whole clause demands, just what could possibly be Congress' objective reference point in determining the inherent value of the one dollar note, differing from, say, the inherent value of a one hundred dollar note?

There is no significant difference between the two notes (other than a little more ink to print few more zeros behind one over the other—there is not one hundred times the inherent value of a one hundred dollar note over a one dollar note).

May there possibly be a "standard of value" without (inherent) value, without objective measure? The answer, of course, is no.

With coined money, there are objective, quantifiable and qualitative standards which leave nothing to speculation, nor is anything left to arbitrary guesswork — a standard of value which is easily determinable and proven.

A coin of specified weight and fineness of specific precious metal provides objective, uniform, and consistent measure of the said coins with a regulated value as mandated by the standard of weights and measures principles mandated by Clause 5.

Honest money needn't actually have a government stamp for its value; it has its own inherent value which is universally understood, which why it became money in the first place

(money originally being the most commonly accepted store of value, the most traded commodity).

When government strikes honest coin and gives it value in consistent fashion of other coins in just proportion, trade is promoted far and wide and the people may prosper.

The value of securities, however, is dependent upon the general state of the economy, the likelihood of repayment by the debtor, and a whole host of incidental factors often beyond the control of the issuer or holder. It is proper that every person accepting securities be the judge of their appropriate worth, as subjective value dependent upon a future state of affairs is not a verifiable standard.

The idea that money — a standard of value — could include irredeemable, non-metallic paper money substitutes is an idea that makes a mockery of the concept of a (fixed) monetary standard.

Certainly, the dollar known in the U.S. today, the Federal Reserve note, has a poor historical record as money, as a store of value over time and distance.

In 1837, a dollar's worth of gold was 23.22 grains of fine gold (where it remained unchallenged until 1933). Today, with gold trading at approximately $1,600 per ounce in Federal Reserve note dollars, equates with 23.22 grains of gold being worth, not merely one of those dollars, but some $80.

That the dollar in circulation today has lost 80-fold of its purchasing power shows our current dollar's utter failure as a store of value.

Of course, our current dollars would have suffered much greater devaluation if Americans hadn't experienced an explosive increase of productivity though technological and process advances.

Even a cursory look into our current economic roller coaster today easily attests to the fact that our "money" today provides no standard of value, even as it yet functions as an exchange medium.

Foreign gold and silver coins lacking legal tender status in the United States circulated at their weight and fineness between parties agreeing to use them (after all, they were of determinable weight and fineness of the same precious metals used in American coins).

Many private coiners also struck gold coins that freely passed between merchants and their customers as far as their reputation for honest weight and fineness carried them.

Foreign coins which were current in the United States will be discussed in Chapter 8.

Every word within Clause 5 is fully consistent to the concept that the only constitutional money is <u>coined money</u>, which offers nearly as fixed of a standard of value as is possible.

In no word does the Clause allude to or allow the concept that paper can be money as a standard of value. Since Clause 5 doesn't give any credence to the concept of money being

anything other than coin, a look at other constitutional clauses where money is referenced is not out of order.

Article I, Section 8, Clause 12 declares:

> "The Congress shall have Power…to raise and support Armies, but no Appropriation of *Money* to that Use shall be for a longer Term than two Years."

Article I, Section 9, Clause 7 states:

> "No *Money* shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public *Money* shall be published from time to time."

Neither of these two clauses which reference the term "Money" provides any insight into what comprises the term and can be therefore quickly passed over.

Article I, Section 9, Clause 1 of the Constitution allows for a tax or duty to be imposed upon the importation of slaves not exceeding "ten dollars." The Seventh Amendment also ensures a jury-trial in any suits at common law where the value of controversy exceeds "twenty dollars."

One will find that the Constitution uses the term dollars without providing any definition for it.

The Constitution was able to use "dollars" without defining it because the dollar was already a known coin (the Spanish milled dollar [after which the American dollar was later modeled]) of silver used in trade throughout the several States (and the world) and the term had also been previously defined for American use by Congress (under the Articles).

Under a congressional resolve of July 6, 1785, the Congress (of the Confederation) resolved that the "dollar" be the "money unit of the United States", the "several pieces" of which shall "increase in a decimal ratio".

Volume 29, Journals of the Continental Congress, Page 500

Under another resolution of the Confederation Congress, on August 8, 1786, a dollar was resolved to consist of fine silver, "three hundred and seventy-five grains and sixty-four hundredths of a grain" in "eleven parts fine and one part alloy".

Volume 31, Journals of the Continental Congress, Page 504

As no mint was actually ever established under this Congress, obviously neither was any coin as specified thus ever struck.

The money unit is obviously money; in fact it is the unit measure of money. The dollar, defined under earlier congressional resolve as the monetary unit of fine silver, would be thus understood to be included within the constitutional definition of money in the Constitution that later used the term.

As covered thus far, one understands that money at least includes coin in a general sense and a coin of silver called a dollar in specific sense.

This chapter thus far should have amply supported that the power "To coin Money" under the Constitution as envisioned by the framers and those who ratified it is to only strike coin of silver or gold.

This correlates well with the historical fact that all congressional monetary acts for the first seven decades under the Constitution dealt only with the striking of gold and silver (and non-tender copper) coin.

Only well after the generation passed away which framed and ratified the Constitution, did the government attempt to pass a type of money that was not coin.

The statements in this book perhaps nevertheless appear naïve, if not plainly wrong, when one takes into consideration today that the United States has a circulating paper medium of exchange which declares "THIS NOTE IS LEGAL TENDER FOR ALL DEBTS, PUBLIC AND PRIVATE."

The Constitution is fully consistent in its mandate that money may only be coin of silver and gold, yet the United States have not minted gold and silver coin for general circulation for generations (modern "commemorative" gold and silver coins which continue to be struck in their historical weight, fineness, and valuations at the Mint in "proof" and "uncirculated" conditions are not released for general circulation and carry a hefty premium [in Federal Reserve notes]).

When facts, held as incontrovertible, contradict one another, there has necessarily been some logical error; some underlying premise was falsely stated, or we have been duped. Later chapters will cover much more information to bring these facts and those which merely appear as fact into proper perspective.

The simple fact of the matter is that ignorance of constitutional principles allows Americans to be deceived. As with any deception, when those being deceived understand the mechanism of deception, they often become embolden in re-asserting their rights and liberties. This book has been written to expose such deception to those willing to explore such possibilities.

A further exploration is still in order to find out those things that are *money* within the eye of the Constitution, one which the early coinage acts better elucidate.

But first, a brief look into the preliminary coinage reports.

Chapter 5: Preliminary Reports

The States united together in establishing their independence (at first loosely united, then under the Articles of Confederation and lastly united under the Constitution), sought repeatedly to establish their own mint for the purpose of the coining their own money. It was not until 1792 that the first mint act was enacted and 1793 until the mint was finally established. The first silver coins were struck in 1794 and the first gold coins were minted finally in 1795.

That nearly two decades passed since the declaration of their independence before the first silver and gold coins were actually struck attests to the difficulty in getting from where the new States were to where they wanted to be.

Causing added difficulty of commerce between the 13 newly-formed States, five different monetary standards originally existed between the States, in their individual monies of account. Added to this was that they were all similarly named — *pounds*, *shillings* and *pence* — dating back to Great Britain's earlier colonial rule.

Having one State's money called pounds, shillings and pence, which differed in value from another State's money of pounds, shillings and pence, created the need for careful valuations when trade occurred between States with differing values for their money.

When the colonies declared their independence, and even when they won that independence, their money of account didn't automatically change, as many contracts had been made, executed and were payable in these monies.

The coining of new American money therefore had to take into account not only striking coin for the future of the country, but had to establish one of the current monetary systems of account as the American money of account, or establish a brand new system, and then get everyone on board with this new standard (or, get everyone on board, and then establish it).

Congress (Continental, Confederation, and later, Constitutional) established various committees and requested numerous treasury reports to discuss pertinent monetary questions and for proposing possible answers. Various reports from Robert Morris (Confederation Superintendent of Finance), Samuel Osgood & Walter Livingston (Confederation Board of Treasury), Alexander Hamilton (Secretary of the Treasury) and Thomas Jefferson (Secretary of State), and others are included in Part II of this book, in Appendix C (under separate cover).

Morris' report was one of the first, commissioned by the Confederation Congress on January 7, 1782. Morris stated in his **January 15, 1782** report that:

> "The various coins which have circulated in America, have undergone different changes in their value, so that there is hardly any which can be considered as a general standard, unless it be Spanish dollars. These pass in Georgia at five shillings; in North Carolina and New York at eight shillings; in Virginia and four Eastern States at six shillings; in all other States, except South Carolina, at seven shillings and six pence; and in South Carolina at thirty-two shillings and six pence."

From Morris' report, one learns that different monetary units in different States, even though they may share a common name (pounds, shillings, and pence), can and did have differing values. Morris compares the value of a Spanish dollar with shillings of the various States.

Robert Morris detailed that five Georgia shillings equated with one Spanish milled dollar. Morris also detailed that one Spanish dollar was equivalent to eight shillings of either New York or North Carolina. The dollar equated in Virginia (as well as New Hampshire, Massachusetts, Rhode Island, and Connecticut,) at six shillings, while Pennsylvania, New Jersey, Delaware and Maryland at seven shillings and six pence; and South Carolina one dollar was fully equal to 32 shillings and six pence.

With 12 pence per shilling, five shillings in Georgia work out to 60 pence there equaling the value of one dollar. 96 pence of North Carolina and New York equaled the value of one dollar; 72 pence in Virginia & four eastern states; with 90 pence for the other states excepting South Carolina, which was at 390 pence per dollar.

Morris provides further insight into gold, silver and copper coinage, stating:

> "Although most nations have coined copper, yet that metal is so impure, that it has never been considered as constituting the money standard. This is affixed to the two precious metals, because they alone will admit of having their intrinsic value precisely ascertained".

Morris points to gold and silver alone as constituting the money standard, due to their "intrinsic value" of being able to be "precisely ascertained". That their value can be determined with great precision points to a true standard being developed, a Standard of Value by which all other items of worth are calculated.

Samuel Osgood and Walter Livingston's 1786 report to the Confederate Congress also admits to copper's impurity when they state "copper being a hard and impure metal, does not as gold and silver require any alloy, to prevent its being impaired in currency".

Thomas Jefferson's report provided more clarity to the fact that it was the monetary unit of each State which varied from one another, by the weight of silver, as established in their money of account.

Jefferson indicates that the pound monetary unit of Georgia contained 1,547 grains of fine silver; of the Virginian standard, 1,289 grains; of North Carolina and New York standard, 966 ¾ grains; the balance of the States (except South Carolina), 1,031 ¼ grains. The provincial pound sterling of Great Britain contained 1,718 ¾ grains.

One of the primary topics of the various reports was the proper denomination of the proposed American monetary unit. A *monetary unit* is the basic component or reference point allowing for the comparison of values. It, with its divisions or even multiples, is a money of account, allowing for the keeping of records of debts, payments, costs, profits, etc. The monetary unit of value is of similar concept to the distance unit of measure of a *foot* or *inch*.

Morris proposed an extremely small monetary unit, to aid the various States with as easy of conversion as possible from the old to the new monetary unit, stating:

> “The money unit of the new coin, to agree, without fraction, with all these different values of a dollar, except the last,* will be the fourteen hundred and fortieth part of a dollar…but there is no necessity that this money unit be exactly represented in coin.” (Publisher’s Note: *Morris is here excluding South Carolina.)

In mathematics, to add or subtract fractions with non-divisible denominators, one multiplies the denominators to find the lowest common denominator. Morris did this to find and recommend the 1/1,440th part. The various States’ pounds, shillings and pence could then just be multiplied to find their just proportion (so as to transfer debts contracted in one type of money to be paid easily in another).

Jefferson (as well as Osgood & Livingston’s April 8, 1786 report) countered Morris’ plan for a small monetary unit of 1/1,440th of a dollar. Jefferson saw such a small unit as hampering the long future of the new monetary unit simply to make it easier for the short-term conversion from using the previous money of account of the past to that of the future.

Jefferson proposed to the Congress under the Constitution, as did many others of the day, that the dollar be the monetary unit. **Jefferson** gave his reasons for his recommendation, which were:

> “The unit, or dollar, is a known coin, and the most familiar of all to the minds of the people. It is already adopted from south to north; has identified our currency, and therefore happily offers itself as an unit already introduced. Our public debt, our requisitions, and their apportionments, have given it actual and long possession of the place of unit. The course of our commerce, too, will bring us more of this, than of any other foreign coin, and, therefore, renders it more worthy of attention.”

Jefferson’s report, as Osgood & Livingston’s, centered on the decimal system of coinage of the monetary unit, in divisions of ten, with Hamilton agreeing.

Alexander Hamilton, in his role as Secretary of the Treasury, issued his report relative to establishment of a mint to the House of Representatives (under the Constitution) on January 28, 1791. He covered many items, going into great detail (as he was known to do).

He acknowledged that while the pound was the official money of account of all the States, the dollar was best entitled to be called the monetary unit in actual coins circulating in the States. The problems associated with the use of a foreign dollar were discussed; being simply that various foreign countries controlled the weight and fineness of the foreign dollar they individually struck.

This meant that if changes were to occur to these foreign coins in their weight or fineness, it was possible that either creditors or debtors would be unjustly favored.

Assays of the older dollars of Spain and Mexico showed that up to 386 grains of fine silver were contained in the early dollars, yet the dollars of the 1770’s had been lightened by these foreign countries by as much as 24 grains.

The variation of the weight and fineness of the Spanish dollar over time is one reason different weights of fine silver were recommended at different times in different reports for the American dollar. As **Hamilton** states in his report:

> "the results of various assays, made by different persons…being as various as the assays themselves."

The later (and lighter) foreign dollars were those found in common circulation, as many of the heavier, older coins were hoarded (if traded by tale [by the count of their stated value {here of $1}] rather than by weight, then the purchaser using these heavy coins at their stated value would be giving away extra silver without additional credit, so the heavier coins are usually last spent) or were melted for bullion and minted into new (lighter) coin of additional number.

A topic covered in many of the early reports was the discussion regarding covering the cost for coining money. The first alternative was for a free coinage of money, whereby any depositor could deposit gold or silver bullion or foreign coin with the mint and have that amount of gold or silver minted into American coins, free of any coining charge. Another alternative was that some charge would be levied to defray waste and the cost of coinage.

Morris stated in his report:

> "the price of coining should be defrayed by the coinage; because, first, it is natural and proper that the price should be paid where the benefit is received, and that the citizen, in return for the advantage of being ascertained in the value of the medium of commerce by the sovereign, should pay for ascertaining it, just as that he should pay for the fashion of plate he uses, or the construction of the cart he employs: secondly, it is right that money should acquire a value as money, distinct from that which it possesses as a commodity, in order that it should be a fixed rule whereby to measure the value of all other things."

Morris here mentions securing "a fixed rule whereby to measure the value of all other things", a vital theme upon which he later again mentions in greater detail.

The April 8, 1786 report by Osgood & Livingston recommended a two percent fee for coinage of silver "on account of waste, and also to defray the expence of coinage." For gold coin, they recommend one-half percent.

Hamilton pointed out there were two ways to defray the expense of coinage out of the metals — the first is by a "reduction in the quantity of fine gold or silver in the coins, the other by establishing a difference between the value of those metals in the coins, and the mint price of them in bullion".

With regard to "the expense of coinage" being "effected...by a reduction in the quantity of fine gold and silver in the coins", **Hamilton** stated in his establishment of the mint report that it was an action:

> "which has been disapproved by the wisest men of the nations in which has been practised, and condemned by the rest of the world."

Hamilton elaborated:

> "To declare that a less weight of gold or silver shall pass for the same sum, which before represented a greater weight, or to ordain that the same weight shall pass for a greater sum, are things substantially of one nature. The consequence of either of them, if the change be realized, is to degrade the money unit; obliging creditors to receive less than their just dues, and depreciating property of every kind…(causing) a rise in prices proportioned to the diminution of the intrinsic value of the coins."

Hamilton proposed a modified version of the two alternatives. This allowed those who were willing to wait for the time it took the mint to accept the customer's bullion and turn it into coin, to obtain coin without charge.

However, if a customer was willing to forgo a one-half percent fee, then they could turn in their bullion and as soon as it was weighed and assayed, they could get an equal amount in coin previously minted (less the half-percent). This proposal was ultimately enacted in the 1792 Coinage Act.

One of the major topics which invariably came up in the various reports and discussions was the gold-to-silver ratio — a fixed legal parity between gold and silver. Some report authors, notably Morris, however, wisely favored but a single standard.

Morris cuts to the chase in this matter, ignoring side issues as irrelevant, and prudently declares:

> "Arguments are unnecessary to shew that the scale by which every thing is to be measured, ought to be as fixed as the nature of things will permit."

He proceeds:

> "Since, therefore, a money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only."

This line of reasoning, especially from the vantage point of two centuries of history since his report, proves extremely wise beyond our experience. If Congress would have followed this single recommendation of Confederation Superintendent of Finance Robert Morris, our nation would likely have had a (monetary) history very different from that which actually occurred.

Morris comes to the following conclusion:

> "There can be no doubt, therefore, that our money standard ought to be affixed to silver…Gold is more valuable than silver…but it is from that very circumstance the more exposed to fraudulent practices."

Hamilton ignores possible fraudulent practices as relatively insignificant and comes to the opposite conclusions, using Morris' same logical argument (only carrying it one step further). He states, with sound logic, that if the desire is to have a monetary unit as fixed as possible, then the metal least liable to variation should be annexed to the monetary Unit. **Hamilton** argues:

> "it ought to be gold rather than silver…to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property."

Hamilton, after using Morris' sound reasoning to succinctly destroy Morris' conclusion as to the single metal which would best fit the role of an exclusive monetary unit, states, however, that he is "strongly inclined to the opinion, that a preference ought to be given to neither of the metals, for the money unit."

Hamilton concludes that it is best:

> "not to attach the unit exclusively to either of the metals; because this cannot be done effectually, without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise…To annul the use of either of the metals, as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full, with the evils of a scanty circulation."

Hamilton briefly mentions the problem inherent in a bi-metallic monetary standard (a fixed parity between gold and silver); that inevitable variations will occur between the two metals (such that the fixed parity will be at the wrong ratio at some point in the future).

He acknowledged that two countries with different gold-to-silver ratios fixed by law, will "select that species which it values least, to pay to the other, where it is valued most." Hamilton also acknowledges that "dealers in money will…often find a profitable traffic in an exchange of the metals between the two countries."

Hamilton postulates that the loss of the quantity of the circulating medium with only one monetary metal:

> "would, probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals; especially, if care be taken to regulate the proportion between them, with an eye to their average commercial value."

Hamilton acknowledges "occasional variations in the unit" are possible, but infers that they are manageable, or at least not as bad as a "scanty circulation" of only one metal.

The logical premise underlying Hamilton's coinage theory as covered earlier unfortunately destroys his bi-metallic monetary standard proposal, however.

Two options appear available to regulate this dilemma, should the bi-metallic ratio fixed by law eventually become different from real-world relations.

The first would be "to declare that a less weight of gold or silver shall pass for the same sum" (or its equivalent; "that the same weight shall pass for a greater sum"). Of course, Hamilton stated that this measure "has been disapproved by the wisest men of the nations", so he could not rationally pick this option should change inevitably become necessary.

The other option is to do nothing and watch the profit-takers take overseas the coin under-valued by local law, to there be sold as bullion, and to be paid in coin of the metal over-valued by local law. The profit-taker could then take his profits back to the mint and get more under-valued coin to again be taken overseas, in an "endless chain" of guaranteed, subsidized profit.

The result of this *arbitrage* (trading between markets with differing rates for the same item) is the coin over-valued by law greater than at market will be the only coin left in circulation and the under-valued metal disappears from circulation.

The coin left in circulation is therefore the more-numerous, less-stable metal to which Hamilton stated that he was opposed to using as the sole monetary coinage metal in the first place. He is, by default — only after a period of economic calamity — getting the system he supposedly opposed in the first place.

Hamilton promoted a dual monetary standard at fixed parity because he stated it would best ensure an adequate supply of available money and that "occasional variations in the unit" would "probably" be less problematic than a scant monetary supply available in only one metal.

With time comes inevitable change, leading then to the money supply shrinking at the rate of the imbalance between the two metals fixed to one another by law.

Hamilton's proposal would eventually require the mint to perform that act "disapproved by the wisest men of the nations" or perhaps watch the metal most "liable to variation" become the de facto monetary unit after a period of great financial turmoil, where the more-stable money disappeared from the market.

Hamilton, besides recommending a system which allows for great economic turmoil inherent in a bimetallic monetary standard, makes the mistake of believing that more money (a primary role of money being a claim to other goods) without a corresponding increase in goods, naturally equates to more wealth.

More claims to wealth (even real, honest money of gold and silver coin) do not equate to more wealth without their tie to other goods.

Ultimately, if there are few other goods, then money has less inherent value (less practical effect), no matter how stable is the money supply (indeed, historical stories abound that during drastic war shortages within the midst of the carnage, that the purchasing power of gold and silver plummet in their relation to the necessities of life such as food and shelter [as real goods are destroyed and are not being produced in sufficient quantities]).

Though honest money of gold or silver coin is far more stable and less prone to rapid increase (especially artificially at government whim) than other forms of money such as paper, and thus serves well to store value over time and across distance, it is money's claim to all other goods and services which ultimately provides it much of its useful value. When other goods are destroyed and services are curtailed, money is naturally less useful.

Hamilton does not discuss the purchasing power of money rising to meet the challenge of providing a medium of exchange while yet serving as a standard of value. Proponents of debt-based money seldom acknowledge as having any worth whatsoever that the purchasing power of money may increase in the future (for it tends to create savings and thrift, rather than expenditures and extravagances).

One option to Hamilton's dilemma (while still addressing his concerns) which also wasn't directly discussed, was to have both metals coined, but to nominate only one metal and its units as the money of account and let the market do the rest.

Gold and silver have been used as money for thousands of years, and relegating only one to the official money of account would not likely effectively ban the use of the other, even if it was little better than "mere merchandise".

Indeed, throughout the earliest recordings of history one finds references of silver and gold even then highly valued as money. Genesis 23:16 states, in part "And Abraham…weighed to Ephron… four hundred shekels of silver, current money with the merchant".

Genesis 13:2 relays that "Abram was very rich in cattle, in silver, and in gold". Of course, Matthew 26:15 tells of Judas Iscariot betraying Jesus to the chief priests for "thirty pieces of silver". The Bible is replete with such examples of gold and silver as being even then of great value.

The precious metal not denominated the official money of account wouldn't necessarily be only "mere merchandise" however, because it would still contain all the inherent benefits which initially qualified it for use as a money of account. It would likely trade only at a small discount from not having a fixed value in the money of account.

The market would inevitably provide a ratio between the two precious metals and payment could likely often be paid in either coin at a fluctuating exchange rate agreed by the parties involved in any given trade, with the default position (without prior approval of the parties in a given transaction) would be payments to be made only in the money of account.

Predictably, gold would only be used for large purchases and where possible on multiples of medium-sized purchases, silver for small and medium purchases (and thus silver would be the primary metal for the money of account [because gold couldn't reach small purchases]).

It would have undoubtedly been less harmful to even use the metal <u>most</u> liable to fluctuations as the money of account than to have an unworkable bi-metallic monetary system at fixed parity.

For instance, Congress could have simply denominated the dollar as the monetary unit, and provided for the dollar of 371.25 grains of fine silver with subsidiary coin in proportional amounts of silver to proportional values of the dollar.

The gold eagle and its divisions could have been coined with no direct tie to the dollar. The market would have provided a fluctuating exchange rate between the eagle and the dollar. Prices denominated in dollars would be converted to eagles easily wherever the parties so desired. The ownership of eagles on financial statements would be listed in their current market value in dollars (as the money of account) as would all other items.

Congress could declare that the gold eagle be receivable at established current rates at the treasury for the payment of taxes and other dues or debts, changing the rates as often as was found necessary (though one would expect far greater price stability with honest money, as compared with rapidly depreciating paper currency as we have experienced in our history).

This single-metal monetary system would have allowed easy modification of the relative value between the two monetary metals, as often as necessary to reflect the true world relationship between gold and silver.

Most importantly, there would not have ever been any need to later change the weight or fineness of either the gold or silver coins due to fluctuations in supply of either metal <u>when they were not legally tied to one other</u>.

Under this alternative system, there would still have been gold eagles and its divisions (and multiples) and silver dollars and its divisions (with the possibility of multiples). However, there would have simply been no legal tie between gold or silver, nor between eagles or dollars, and only one money of account so bookkeeping could still function properly.

Contracts would be denominated in dollars by default (as the legal money of account) but the parties would be free to specify or accept eagles. Businesses would keep their books in the legal money of account, which would be the dollar (unless the act had specified eagles be the money of account [or gold of some other name]).

Hamilton states near the end of his 1791 report, based upon his findings for values, weight and fineness of foreign coin:

> "the conclusion to be drawn from the observations which have been made on the subject, is this: That the unit, in coins of the United States, ought to correspond with 24 grains and ¾ of a grain of pure gold, and with 371 grains and a ¼ grain of pure silver, each answering to a dollar in the money of account…the former is exactly agreeable to the present value of gold, and the latter is within a small fraction of the mean of the last two emissions of (Spanish) dollars".

The weights of 24.75 grains of fine gold per dollar (247.5 grains of fine gold per $10 eagle) and 371.25 grains of fine silver per dollar were the standard ultimately enacted into law by Congress on April 2, 1792.

Americans today should realize that in every one of the various early monetary reports is the author's tying of the value of every proposed monetary unit and every legal tender coin to its content of either pure silver or pure gold. There was no concept proposed for legal tender money apart from an amount and purity of silver or of gold.

Chapter 6: Primary Coinage Acts

Section A: 1792, April 2 Act

On March 3, 1791, a joint resolution of Congress resolved to establish a mint, authorizing the President to engage artists for designing the coins and to procure "such apparatus as shall be requisite" (for carrying out the purpose of the mint). Volume 1, Statutes at Large, Page 225.

America's first coinage act under the Constitution was enacted on April 2nd, 1792, which formally established by legislative act a mint "for the purpose of a national coinage". The act stated that the mint would be situated and carried on at the "seat of the government of the United States." Volume 1, Statutes at Large, Page 246

Philadelphia, Pennsylvania was then the acting seat where the government met and from which they operated.

During the Revolutionary War, Congress had been forced to vacate the government seat numerous times by threatening advances of the British enemy forces.

Philadelphia was the site for the meeting of the First Continental Congress in 1774 and also the initial site for the Second Continental Congress meeting in 1775 and 1776. Congress met next in Baltimore, Maryland; Philadelphia again; then Lancaster, Pennsylvania; followed by York, Pennsylvania; then again Philadelphia; subsequently Princeton, New Jersey; next Annapolis, Maryland; then on to Trenton, New Jersey for a few months in 1784, before finally resting in New York City in 1785.

When Congress assembled in each of these many American cities, they had to look to the various State governments not only for their various needs, but also for protection against enemy aggression and even domestic hostility.

From such a storied history, the constitutional convention delegates thus thought it appropriate to have a permanent "federal city", such that Congress and the other branches needn't look to any individual State for their own needs: Article I, Section 8, Clause 17 became the end result.

Of course, siting a permanent government seat became somewhat of a political football, for the primary region out of which the new government would operate would naturally add but a bit of clout to it.

During siting negotiations, Secretary of the Treasury Alexander Hamilton, a New Yorker, (casually representing the moneyed interests of the North) removed his objection for the seat's location on the Potomac once Secretary of State Thomas Jefferson (in essence representing Virginia and the South) removed his objections to Hamilton's August 4, 1790 public credit bill, regarding assumption by Congress of the States' individual war debts.

The District of Columbia was thus cleared to become the permanent seat of the government.

The initial government seat under the Constitution began in the City of New York in accordance with the resolution of **September 13, 1788** of the Congress yet meeting under the Articles of Confederation:

> "…*Resolved* That…the present seat of Congress (be) the place for commencing proceeding under the said constitution."
>
> Volume 34, Journals of the Second Continental Congress, Page 523.

In the **July 16, 1790 act** "*for establishing the temporary and permanent seat of the Government of the United States*" Congress, in **Section 5**, dealt with the temporary seat, directing:

> "That prior to the first Monday in December next, all offices attached to the seat of the government of the United States, shall be removed to, and until the said first Monday in December, in the year one thousand eight hundred, shall remain at the city of Philadelphia, in the state of Pennsylvania, at which place the session of Congress next ensuing the present shall be held."
>
> Volume 1, Statutes at Large, Page 130

Section 1 of the **1790 act** dealt with siting the permanent seat, stating:

> "That a district of territory, not exceeding ten miles square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochegue, be, and the same is hereby accepted for the permanent seat of the government of the United States." *Ibid.*

Once the District of Columbia became operational as the permanent government seat in 1800 (in conformance with Section 6 of the 1790 act), seven different acts of Congress continued the mint at Philadelphia for further terms of between nine months and five years, until the Act of May 19, 1828 (4 Stat. 277) finally continued the mint at Philadelphia until further notice (even though Philadelphia was no longer the government seat).

Officers with prescribed duties were listed next in the 1792 Act. Various mechanisms to ensure the officer's honest and capable execution of their offices followed.

The means to pursue the authorized end had to be in place prior to minting the coins. Government and its officers can be looked at somewhat as automatons — robots, if you will. It is not the purpose of this analogy to belittle government service, but to explain governmental roles. Government is but a delegation of authority. For a government officer to act in an appropriate, official capacity, that action must first be authorized.

Officials have discretion only in choosing different means to accomplish an approved end. Any end not authorized is outside of their authority, and thus un-official. Un-official is another way of declaring that it is simply done as a private individual without any governmental authority. As any private action, the individual who may happen to also be a government official is fully answerable to transgressions against other persons or property (when they surpass their appropriate authority).

Each and every officer, as well as the various clerks, was required in Section 4 of the 1792 coinage act to take an oath or affirmation to faithfully and diligently perform the duties of his respective office. An *oath* has religious connotations, while affirmations do not. Both are

designed to obligate the official to the highest degree possible, even if the officer had no religious leanings (religious tests as a qualification to hold various State government positions were then yet common [though prohibited for federal offices and positions of the public trust under the U.S. Constitution in Article VI, Clause 3]).

The importance of the requirement of giving oaths or affirmations can be partially evidenced by the fact that the very first act of the very first session of the very first Congress was for prescribing them.

The best evidence of their importance is that no government official (with a high enough position such that oaths or affirmations are required) has any governing authority prior to the taking of such. This was worded in the first Congressional act by stating that such oath or affirmation is required "*before* they proceed to execute the duties of their respective offices" and "*before* they act in their respective offices". Of course, it should be mentioned that any minor government official without a high enough office that they needn't personally take an oath always serves under a superior who has taken one.

Volume 1, Statutes at Large, Page 25 (italics added)

Legislative members likewise must take their oath or give their affirmation "to support this Constitution" as mandated by Article VI, Clause 3 before they take their seats, as worded in the first act of Congress, "*previous* to entering on any other business" and "*previous* to his taking his seat".

Ibid, Page 24. (italics added).

Meanwhile, **Article II, Section 1, Clause 8** of the **U.S. Constitution** specifically mandates this principle in regard to a newly-elected President (italics added):

> "*Before* he enter on the Execution of his Office, he shall take the following Oath or Affirmation:— 'I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States'."

The oath and affirmation complete the constitutional contract for the appropriate delegation of government power. Not until any given official or member "signs" on the dotted line with their verbal oath or affirmation does the legislative member or government officer have any governing authority. Once they agree to properly support the Constitution, then and only then do they then have any governing authority.

Section 5 of the act went further and required that the Assayer, Chief Coiner, and the Treasurer "each become bound to the United States of America, with one or more sureties…for the faithful and diligent performance of the duties of his office" in the sum of ten thousand dollars each.

To better understand the implication of the term of being "bound to the United States", a look to the Constitution is helpful to see how the term "bound" is therein used. **Article I, Section 2, Clause 3** states that;

> "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number

> of free persons, including those *bound* to service for a term of years, excluding Indians not Taxed, and three fifths of all other Persons."

Indentured servants were those persons who were "bound to service", who obligated themselves for a term of years (often seven), typically as payment to work off a debt (apprenticeship to learn a trade [from a master craftsman], for payment of transportation to the United States, etc.). Indentured servants were considered the same as free persons for terms of representation and direct taxation, but had contractual responsibilities to work for the time as agreed upon (room, board and other necessities were provided the servant).

The phrase "three fifths of all other Persons" refers to those "other Persons" who were bound or "held to labour" (see Article IV, Section 2, Clause 3), i.e., slaves. The condition of a slave needs perhaps little expounding upon to convey the significance of there being "bound" or being "held".

A *surety* (bond) is an amount of money posted for a specific action (or inaction). An individual is free to put up the entire bond amount himself, or he may contract with a bonding company for a fee and be responsible to the amount bonded should the company have to pay out that amount should a claim be won against the bond. A number of activities other than direct government service involve the necessity of bonding, especially common in the construction industry, or in the posting of a bail bond to ensure attendance pending a criminal trial, etc.

A ten thousand dollar bond was a very large sum of money in 1792 — in fact it was ten and even twenty times greater than a good annual salary of the day. This amount was so large, in fact, no mint officer was actually able to qualify and post such a large bond. As a result, no silver or gold coins were struck.

As the intention of Congress was to actually coin money (with the least chance for fraud, embezzlement, etc.), Congress eventually passed the Act of March 3, 1794 (1 Stat. 341) that lowered the bond for the Assayer to $1,000 and the Chief Coiner to $5,000.

With the bond lowered, the first silver coins were struck on October 15, 1794 and gold July 31, 1795 (*see* July 22, 1797 Proclamation #6 by President Adams [11 Stat. 755]). Copper cents, which were not a legal Tender (and therefore didn't require bonding), were struck in March of 1793.

Bonding of individual government agents is an important custom of law. An oath or affirmation is a solemn promise for some specified, competent action (or occasionally inaction), or at least one's best attempt. Talk is cheap, however, and sometimes incompetence simply will not suffice. Law therefore occasionally puts more teeth into the matter, and mandates that various public officials back up that promise with a bond (especially those working with large sums of money).

The bonding company profits when the person bonded adequately performs his duties without claim against the bond. When a claim is initiated and won against the bond for improper performance, the properly-capitalized bonding company must pay for any loss or successful claim up to the full value of the bond. The bonding company will then go after the person bonded for recompense for the amount paid out by the company. Bonding companies have an

extremely strong legal position for collecting on their bonds, much greater than ordinary promissory notes which are generally issued as when money is lent.

Failing on a bond would generally prevent the person from again being bonded — which in the case of government service — would prevent this person from holding any future office that required bonding.

As such, the bonding requirement helps ensure honest, capable office-holders who have a vested interest in keeping their "customers" satisfied. Individual bonding of civil officers helped put the "service" in government service. A monetary performance bond best ensures adequate performance, present and future.

Government is but a delegation of authority. Public officials (as also legislative members) have specified authority that they are powerless to expand upon except by deception over a populace ignorant of the mechanisms they use. Both the oath and the use of surety bonds are crucial tools to ensure faithful job performance within the official's lawful capacity.

Section 9 of the 1792 Act provides that coins of gold, silver, and copper be struck in specific denominations, values, and descriptions.

Gold eagles were the first coin discussed, "each to be of the value of ten dollars or units". The eagle struck under the 1792 act contained "two hundred and forty-seven grains and four eighths of a grain" of fine (pure) gold (recall from Chapter 3 that there are 480 grains in one troy ounce). The eagle contained 270 grains of standard gold.

The ratio of gold-to-alloy in the gold coin was 11 parts gold to one part alloy, as provided in Section 12 of the Act (as well as being deduced from the ratio of 247.5 fine gold/270 grains standard gold [.916667 fineness]).

Gold half-eagles and quarter-eagles were also detailed, with proportional amounts of gold and in the proportional values of five dollars, and two and a half, respectively.

The tying of the eagle to the value of ten dollars (giving an effective parity of one gold eagle to ten silver dollars) and the fixing of one ounce of gold to fifteen ounces of silver by law (giving a legal parity between gold and silver by weight) under Section 11 eventually led to repercussions which allowed for later monetary shortages and economic undulations which helped set the stage for eventual effective de-monetizing of both gold and silver in the United States.

Section 9 of the 1792 Act also provided for silver coinage in the denominations of the dollar, the half dollar, quarter dollar, the disme (dime) and half-disme. The fractional silver coinage all had proportional fractions of silver as they were valued according to a dollar.

The dollar was denominated in Section 9 as the monetary unit, to "be of the value of a Spanish milled dollar as the same is now current" and to "contain three hundred and seventy-one grains and four sixteenths parts of a grain of pure, or four hundred and sixteen grains of standard silver".

Section 13 of the act provided the standard for all silver coins to be 1,485 parts fine silver to 179 parts alloy. 1,485 parts in 1,664 were to consist of pure silver, the remaining 179 wholly copper, added for better wear.

Numismatist-extraordinaire Walter Breen (*Walter Breen's Complete Encyclopedia of U.S. and Colonial Coins*, Doubleday, New York, 1988, Page 423) incorrectly infers that this "awkward fineness" for silver of 1,485/1,664ths was used in futile attempt to match what he thought they thought to be the fineness of the Spanish milled dollar.

Breen writes "primitive assaying methods available at the time prevented authorities from learning the true Spanish standard, which was 65/72 silver and 7/72 copper." *Ibid.*

The pre-eminent Mr. Breen continues (with regard to changing the fineness to something easier with which to deal); "Congress in 1794 violently opposed any such change, for reasons forever obscure", even over the Assayer of the Mint's continued complaints of the extreme difficulty of working with such a cumbersome yet exacting fineness. *Ibid.*

With a proper inspection into the original coinage act and a little deductive reasoning, however, congressional reasoning in the 1792 coinage act needn't remain even temporarily obscure.

While perhaps mint authorities didn't learn the true Spanish standard, the reason for the ratio of 1,485 parts fine silver to 179 parts alloy — for 1,664 parts total — had nothing directly to do with the actual composition of the Spanish milled dollar (after which the American dollar was otherwise modeled).

The real reason had everything to do with an absolutely-strict adherence to the newly-established, bi-metallic monetary standard.

One ounce of gold equated to 15 ounces of silver by operation of the 1792 law and its express wording. There were 24.75 grains of fine gold in the dollar monetary unit as fixed by the 1792 act (note that a gold dollar coin was not actually authorized by law to be struck until 1849).

Multiplying 24.75 grains of gold per dollar by 15 (the bi-metallic equivalency rate established by law in 1792 between silver-to-gold) equals 371.25 grains; the same number of grains of fine silver in a dollar weighing 416 grains total as established by the 1792 act.

Multiplying 371.25 grains then by four (to get rid of the fraction in the numerator in the equation 371.25/416, so the mint officers could work in whole numbers) equals 1,485.

1,485, of course, is precisely the purity of fine silver specified by the 1792 Act.

Since the numerator in the fraction of 371.25/416 was multiplied by four, so too must the denominator 416 be multiplied by four (to keep the value of the fraction equivalent). 416 times four equals 1,664.

Recall that the 1792 Act (in Section 13) specified 179 parts copper alloy for the silver dollar.

1,485 parts silver plus 179 parts copper equals 1,664 total parts.

The admittedly "awkward" standard of 1,485 parts of fine silver and 179 parts copper, for a total of 1,664 parts (.892428 fine) then had nothing directly to do with a supposed estimation of

the purity of the Spanish milled dollar, but had everything to do with keeping silver fixed by law at precisely 1/15th the value of gold (as established and required by the 1792 act), especially in a silver coin whose value was determined solely by weight.

In this manner, any silver coin, whether the dollar or it fractions, whether of full or abraded weight, would always remain exactly 1/15th of the proportional value of gold (by weight) as established by the 1792 Act.

Had the silver standard been anything else but exactly fifteen times the gold standard, then as the silver coin wore down from abrasion (and any fractional silver coin), the remaining amount of silver would be valued at a slightly-different standard than 1/15th the gold standard.

This requirement was of special significance considering the original intent for U.S. coins was that they would pass at their weight and fineness, rather than by tale (than at their count at their declared value [$1, $10, etc.]).

Those of full weight would pass at their full stated value, but worn or abraded coins would only pass at their measured weight. A dollar coin lightened to only 98% of its proper weight would then be valued only at 98 cents, rather than one dollar. The first U.S. silver and gold coins were struck without any face value indicated on them because their face value didn't necessarily represent the coin's actual legal tender value.

Maintaining a strict adherence to the newly-established bi-metallic monetary standard, grain-for-grain of coin, even to the point of stubborn insistence to exacting standards (no matter how cumbersome or difficult it may prove to be to the mint employees) is the actual reason for Congress' initial stubborn insistence to this "awkward fineness" standard of 1,485/1,664 to which Breen refers but did not uncover (even with his unparalleled encyclopedic knowledge of American coinage).

The point of highlighting Mr. Breen's oversight is neither an attempt to belittle him, nor make this author appear more knowledgeable than he is. This author has not 1/1,000th the coinage knowledge of Mr. Breen (as noted therein by the publisher of the 1988 coinage encyclopedia, "Walter Breen is widely considered the foremost U.S. coin historian alive today"), while this author is only but a lowly dump truck driver (and only a fair one at that).

The point of highlighting Mr. Breen's oversight is to intentionally point out that even people of the greatest renown, well-earned from a lifetime of study of their highly-specialized field of expertise may yet fail to grasp even fundamental principles which well-supported proper American liberty, so far have we been removed from those principles. This is true not only regarding our constitutional form of government, but also our money.

Law, when correctly honored, is not necessarily meant to be pragmatic, but legally-exacting.

The premise of this author is that we Americans have become lost in our wildly-overgrown government forest because we have discarded our constitutional compass which directed the appropriate pruning and thinning of the trees.

At best, the Republicans and Democrats argue over which individual twigs of which individual branches of which individual trees in the mighty overgrown federal forest to prune.

This author intends to make his case for vast clear-cuts of federal authority to drive the federal government operating in such an extra-constitutional manner back to its ten miles' square authority for the seat of the government.

Thus, matters seemingly insignificant to known experts are of special concern to this author. Continuing to look only at the same things the same way will only get us more of the same. It is ludicrous to expect different results with the same effort that has failed continuously.

One must use independent thought to blaze new trails to make the logging roads which can then be used to haul off all the neglected wood which has become infested with destructive government termites and beetles. The trees can yet be salvaged and out of them new structures can yet be built for free Americans, but there is much work to be done and times are becoming critical if we are to save the value of these trees and thereby us.

The mandate of 1,485 parts silver out of 1,664 total parts was to maintain strict proportionality of the silver coins with the gold dollar established at 24.75 grains of fine gold. However, it was not only at that given increment (of precisely one dollar) that this mandate was given, but at all measures.

Section 11 of the **1792 act** clearly stated this principle of strict proportionality in <u>all measures</u>, stating (with italics and underscore added):

> "That the proportional value of gold to silver *<u>in all coins</u> which shall by law be current as money* within the United States, shall be as fifteen to one, according to quantity in weight, of pure gold or pure silver; that is to say, every fifteen pounds weight of pure silver shall be of equal value in all payments, with one pound weight of pure gold, *and so in proportion as to <u>any</u> greater or less <u>quantities</u> of the respective metals*."

Obviously, for "all coins" to remain "in proportion as to *any* greater or less quantities" (than in the pound weight) "of the respective metals", there must be exactly 1/15th the value of silver as there would be gold at any given weight.

By maintaining this strict 1,485/1,664^{ths} ratio of standard silver, all silver coins were thus always able to uphold this principle strictly to all gold coins, as fastidiously required by Section 11, even on abraded coin.

The author's real point of this examination into the standard purity set for the silver coins is to show that with Congress going to extreme and even perhaps impractical lengths to keep the gold and silver coins struck at the mint in proper valuation to one another, this provides compelling evidence of an absolutely-strict intention that the value of money be wholly determined only according to weight and fineness of either gold or silver; that substance and principles mattered, not necessarily the name of the unit or its designated value.

That coin — money — was initially valued <u>only</u> according to the weight and fineness of gold and silver is verified in Jefferson's 1791 report on the establishment of a mint, where he writes "no money should be received, or paid at their treasuries, or by any of their officers, or any bank, but on actual weight".

Valuation based "but on actual weight" was to make sure the coin's "lawful tender" value reflected not merely the coin's stated or intended value, but actual weight in silver or gold, in case any coin be "clipped, or otherwise diminished".

Hamilton's 1791 report, referencing the Spanish milled dollar, states that although this particular "species of coin has never had any settled or standard value, according to weight or fineness", it nevertheless "has been permitted to circulate by tale, without regard to either, very much as a mere matter of convenience".

In other words, though money at law is legally valued only and actually by its weight and fineness of gold or silver coin, in everyday practice, however, people readily accepted gold and silver coins of honest reputation at their stated face value (even if their weight tended to vary to minor degree).

U.S. gold and silver coins of honest reputation also ended up largely passing by "tale" rather than by actual weight and fineness, again as a "mere matter of convenience".

Americans came to find over many decades that their U.S. gold and silver coins were honestly struck at the mint in their proper weight and fineness, and coins worn below their legal tolerances for weight later established were re-struck into new coin of proper weight.

Americans thus learned they could readily accept the coin's face value without question, allowing greater speed of commerce (since there was little actual need to individually [or in bulk] weigh the coins to determine proper value [since the mint performed so well their job of striking coin of proper weight and fineness]).

Sadly, the very integrity which the mint of the United States could once rightfully claim for their striking of just and honest coin, over time led to complacency in the public which ceased the careful scrutiny of the substance of things.

For a "mere matter of convenience", coins could be accepted at face value without much thought of the substance inside, allowing people eventually to be made the "dupes of sounds" when names became "substituted for things", as first some silver, then all gold and then later all silver were removed from coin which were still declared to be a "dollar".

Section 12 of the 1792 act established at law the legal fineness of the gold coins (as inferred in Section 9), stating, in part:

> "*And be it further enacted,* That the standard for an gold coins of the United States shall be eleven parts fine to one part alloy; and accordingly that eleven parts in twelve of the entire weight of each of the said coins shall consist of pure gold, and the remaining one twelfth part of alloy; and the said alloy shall be composed of silver and copper, in such proportions not exceeding one half silver as shall be found convenient; to be regulated by the director of the mint, for the time being, with the approbation of the President of the United States, until further provision shall be made by law."

Section 13 of the 1792 act established at law the legal fineness of the silver coins (as also inferred in Section 9), stating:

> "*And be it further enacted,* That the standard for all silver coins of the United States, shall be one thousand four hundred and eighty-five parts fine to

> one hundred and seventy-nine parts alloy; and accordingly that one thousand four hundred and eighty-five parts in one thousand six hundred and sixty-four parts of the entire weight of each of the said coins shall consist of pure silver, and the remaining one hundred and seventy-nine parts of alloy; which alloy shall be wholly of copper."

Section 16 of the 1792 act firmly established at law the principle of actual legal valuation based solely upon weight, rather than by tale, stating:

> "*And be it further enacted,* That all the gold and silver coins which shall have been struck at, and issued from the said mint, shall be a lawful tender in all payments whatsoever, those of full weight according to the respective values herein before declared, and those of less than full weight at values proportional to their respective weights".

Sections 12, 13 & 16 of the 1792 act, taken together, resolutely established at law the legal principle that the actual legal tender value of coined money is not its declared or stated value (unless of full weight), but only its actual weight of gold or silver at their specified fineness.

The principle authoritatively stated in Section 16 of the act of April 2, 1792 — that the ultimate value of legal tender gold and silver coins is only "proportional to their respective weights" — *unconditionally refutes by law the idea that money could be anything other than gold or silver coin.*

Just as the Constitution clearly stated in Article I, Section 10, Clause 1 against the States ("No State shall…make any Thing but gold and silver Coin a Tender in Payment of Debts"), the Second Congress clearly honored as also against the U.S. government, that only silver and gold coin were considered as money, as a lawful "Tender in Payment of Debts" in the United States of America.

Stated again because of its conclusive importance, the 1792 legislative act unequivocally established in practice the constitutional principle that the actual legal tender value of coined money be only its actual weight of gold or silver at their specified fineness.

It was not a coin's declared or stated value which legally provided its lawful value, but only the actual weight of gold or silver at specified purity.

The first monetary act of Congress under the Constitution clearly refutes by law the idea that lawful tender money could be ANYTHING other than gold or silver coin.

If a coin of silver declared to be a dollar weighs but 98% of its intended weight, it thus only has a true legal value according to statute at 98 cents, in "values proportional" to its "respective weight".

Thus, a cupro-nickel coin without any silver but with a declared value of 25 cents is not actually valued at a quarter of a dollar of the United States of America, but actually has NO lawful tender value monetarily.

Obviously, then, a piece of paper also called a "dollar" with neither any silver nor gold (nor even any tie) also has no actual value as lawful tender money in the United States of

America; in other words, we Americans today (and those of that preceded us of late) have been made "dupes of sounds".

Americans have been duped by the sound of calling a dollar bill a "dollar" and thinking it is actual money with lawful tender value.

Simply calling something a "dollar" does not make it to actually be or worth a dollar, the unit measure of value specified as a money of account in these United States of America under the constitutional power "To coin Money, and regulate the Value thereof", within an objective standard of weights and measures. A dollar is an amount and purity of silver (and, due to the bi-metallic standard, an amount and purity of gold).

The cumbersome but otherwise strict fineness of 1,485 parts silver out of a total of 1,664 parts is then not an odd but insignificant matter which can be misunderstood, overlooked and then dismissed with impunity, but a critical factor which undergirds the principle that our money is but an amount of specified purity of silver and gold.

This book is an exposé on how we got from where they were then to where we are today.

The first monetary act under the Constitution honored well the monetary principles established by the Constitution earlier covered in this book, erring only in the naïve misconception that the Congress could affix by law a fixed parity between two dissimilar items.

The "lawful tender" value of coins is determined *solely* by the actual weight of gold and silver of proper fineness. Those of full weight and at proper fineness are lawful tenders at the coins' "respective values" as stated, but those of diminished weight, only at "values proportional to their respective weights".

The first circulating U.S. silver coins were minted in 1794 and the first U.S. gold coins in 1795. The silver dollar didn't have its value (of "one dollar") struck onto the coin's reverse side until 1836 (the dollar was not coined between 1803 and 1836 [due to the Spanish milled dollar adequately meeting demand for this sized coin, which Spanish milled dollar was made current as money under Congress' power to regulate the value of foreign coin]).

The half-dollar curiously had its value struck on it in 1796 and 1797, but then not again until 1807. The quarter-dollar had its value included in 1804, the "disme" (dime) in 1809, and the "half-disme" (half-dime) finally in 1829 (the half-disme wasn't coined between 1806 and 1828).

It wasn't until 1807 that half-eagles ($5) had their denomination struck onto the coin's reverse. Quarter-eagles ($2.50) had their value included on the coin in 1808, and eagles ($10) in 1838 (eagles were not coined between 1804 and 1838).

Again, under the 1792 act, even a coin stamped with a value, such as a five dollar eagle, was not necessarily worth $5. It was only legally valued at its proportional weight; if the weight came up short, its value was proportionally lower.

Gold coins under the 1792 act were established at an 11/12$^{\text{ths}}$ fineness of 24.75 grains of fine gold in 27.0 grains of standard gold per dollar (the ten-dollar eagle of 247 ½ grains fine gold in a coin of 270 grains standard gold).

This old-world historical standard of .916667-fineness (going back before this era many hundreds of years, in Europe) was first used in American gold coinage under the recommendation of the August 8, 1786 Resolution of the (Confederation) Congress. Alexander Hamilton, in his 1791 Treasury report, agreed this ratio "appears to be a convenient rule; unless there should be some collateral consideration which may dictate a departure from it".

Section 20 of the 1792 Act established the money of account, stating, in part:

> "the *money of account* of the United States shall be expressed in dollars or units, dismes or tenths, Cents or hundredths, and milles or thousandths, a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, a mille as the thousandth part of a dollar, and that all accounts in the public offices and all proceedings in the courts of the United States shall be kept and had in conformity to this regulation".

With Section 20 of the 1792 Act, Congress established the United States' money of account as the dollar in its proper decimal parts (these decimal parts weren't necessarily represented in coin form, of course ["mills" being very small]).

To Americans today, a dollar being divisible by tenths and hundredths seems so very natural. However, such convenience was by no means first assured.

Recall that the Spanish milled dollar was divisible by eighths, not tenths.

Americans unfamiliar with a coin divisible by the difficult divisor of eight (especially when 10 is such a convenient alternative) may question the prudence of a division of a coin into (6 ¼-,) 12 ½-, 25-, 37 ½-, 50-, 62 ½-, 75-, 87 ½-, and 100-cent valuations, while thinking nothing of measuring distance with a foot divisible by 12 inches, pound divisible by 16 ounces, or a gallon divisible by 16 cups, eight pints, or four quarts.

Of course, even though the American money of account is strictly decimal-based to the great relief of accountants everywhere, American coinage itself does not strictly follow a decimal-based system of coins of only a penny, dime and a dollar (multiples of ten).

Though decimal-based standards work extremely well in math (and thus serve well as the money of accounting), in the real world, no one wants to use nine pennies before they can use a dime, nor nine dimes and nine pennies before they can use a dollar.

Thus, one finds American coins such as the nickel or half-dime valued at five cents, the quarter at 25, and the half-dollar at 50 (besides the penny and dime elsewhere delineated). Thus, when giving change, a few coins quickly make any correct change (thus the benefit from the severing of the value of actual coins struck from a decimal-based money of account system).

Of course, dividing the foot by twelfths likewise allows easy practical division into halves and quarters, as well fourths and even thirds.

The same expediency goes for a gallon divided into quarts (quarter), pints (eighths) and cups (sixteenths) or the avoirdupois pound into sixteen ounces. Such accuracy of division in half and in half again simply by use of the eye which makes quick, practical sense and helps Americans stave off the otherwise useful metric system adopted by much of the rest of the world.

That one could estimate half-, quarter-, eighth- or even sixteenth- aliquot parts by eye to sufficient approximation provided great benefit, especially in the early world where scales, measuring vessels and tape measures or rulers were not always as prevalent as today (nor perhaps as affordably accurate).

Just as a gallon can be divided into halves, quarters and eighths, so too was the Spanish "piece of eight" ("pieces de ocho") often literally cut in half for 50-cent value, cut in half again for 25-cent value, and perhaps cut in half yet again (for the 1/8th part) for 12 ½ cents (and even half again into the 1/16th parts) when smaller denomination coins were not handy.

That one could crudely cut up a dollar coin quite accurately by simply "eyeing" the coin to be sliced, while yet allowing proper approximate valuation of the resultant pieces shows easily the strengths of division by halves, quarters, eighths, and sixteenths even within money.

That the various pieces of the Spanish milled dollar which was often literally cut up retained their individual, proportional values supports well the concept of inherent value determined not by government fiat, but by the amount of the inherent substance which gave the thing its value.

A good method to drive home this concept of inherent value based upon real substance would be to tear up a twenty dollar bill today in half and then half again, and then to try and pass off the four pieces to four other persons as proper payment of five dollars of value and watch for the reaction.

Of course, this example cannot actually be recommended beyond mere theory, for it is a crime to deface or destroy the bill. Destroying a dollar or twenty dollar bill is illegal because the bill secures a debt, providing physical evidence of that debt. This note "dollar" is an asset only to the extent that its future liability is properly honored. It is improper to destroy physical proof of the debt, for then the debt liability is not being properly evidenced.

In contrast, one may destroy one's own wealth without harm or foul (without other factors coming into consideration. For government inferences otherwise regarding coin [such as the Coinage Act of 1965 {79 Stat. 254}, Sections 105 and 106], please see Chapters 11 - 13).

For instance, one can place several quarters and a penny into an amusement park's coin press and watch the penny being struck into a thin, oblong memento with an impression of the park on it, because metallic coin (even of base metals) is an asset which does not have any debt associated with it and neither does it represent any future liabilities (use of even base coin is then preferred over dollar bills [when not overly inconvenient], to at least use a type of money [broadly defined] which is not debt-based).

With the 1792 act, the United States established a single money of account throughout all the States, in accordance with Congress' express power to coin money and to establish a standard of weights and measures, with the dollar and its fractions being the measure of value.

Trade could be more-easily promoted between the States, a vast improvement of their earlier condition leftover from their period as British colonies. Recall in the 13 colonies/States, there were five differing monies of account, each denominated in pounds, shillings and pence.

To add the amount of three pounds, twelve shillings, eight pence to two pounds, nine shillings and six pence to find the total, one must know that there are 12 pence per shilling and 20 shilling per pound. So, eight pence plus six pence equal fourteen pence, or one shilling and two pence. The one shilling carried over from the pence column is added to the twelve shillings and nine shillings then accounts for a total of twenty-two shillings, or one pound and two shillings. So adding this one pound carried over and added to the three pounds and the two pounds, one may find a grand total owing of six pounds, two shillings and two pence.

As if this math exercise didn't provide sufficient chance for mathematical error, if trade occurred between any two States with differing monies of account with same names, one had to then multiply the figure determined above by its exchange rate with the second money of account, to come up with the corresponding value in the second money of account that was to be paid in that money of pounds, shillings and pence.

It is perhaps no wonder the framers of America's monetary acts sought the simplicity of a decimal-based, uniform money of account.

Section 9 of the Act specified that "from time to time" there shall be "struck and coined at the said mint" the various "coins of gold, silver and copper", including "DOLLARS or UNITS — each to be of the value of a Spanish milled dollar as the same is now current".

The 1792 Act thus gave two alternate, equivalent names for the dollar coin, that of "dollar" and that of "unit". The dollar or unit coins were "each to be of the value of a Spanish milled dollar as the same is now current, and to contain three hundred and seventy-one grains and four sixteenths parts of a grain of pure, or four hundred and sixteen grains of standard silver."

That a dollar was legally referenced in the 1792 Act as the "unit" places special emphasis back to the Article I, Section 8, Clause 5 concept of coined money within verifiable standards. The "unit" was the essential component for the measure of value within an objective system of weights and measures which presuppose actual standards would be used.

The essential concept of the establishment of a standard in the measurement of value cannot be over-stated in our age of economic unraveling. This author maintains and asserts the loss of America's standard of value is the single-largest, critical factor of our loss of direction, of America being the bright Beacon of Liberty in a world all too full of darkness and despair.

Much of the economic uncertainties of ages past and present, as well as the financial explosions and implosions yet to come, each have essential roots in our loss of objective measure and loss of our proper store of value. Capital saved over decades and generations is being consumed, infrastructure built and established over the centuries crumbles from neglect, and the birthright of future Americans is being sold for a bowl of porridge (one with little substance at that).

The eagle was established in 1792 as a coin of gold, and, as specified by the act, equal to the value of ten dollars. In that it was not that an eagle was ten dollars, but equaled to the "value of ten dollars"; the United States were provided with a monetary standard of silver coin with a gold equivalency.

In **Alexander Hamilton's report** on establishment of the mint written one year before enactment of the 1792 statute, he states:

"If the general declaration, that the dollar shall be the money unit of the United States, could be understood to give it a superior legality in payments, the institution of coins of gold, and the declaration that each of them shall be *equal* to a certain number of dollars, would appear to destroy that inference: And the circumstance of making the dollar the unit in the money of account, seems to be rather matter of form than of substance."

With gold being set by law within Section 11 of the act to be equal to 15 parts of silver, America declared a fixed parity between these two metals. Copper coin was not a legal tender, but circulated for the smallest transactions in the cent and half-cent.

Section 10 of the act provided for the devices and legends to be struck on the coins. On the coins' obverse (front), there was to be an "impression emblematic of liberty." This impression initially amounted to, by way of the mint official's artistic expression, a profile of "Lady Liberty" (with Presidential portraits seeming too "monarchial"). Also struck on the face of the coin were the word "Liberty" and the year of coinage.

On the Coin's reverse, there was figure of an eagle and the inscription "UNITED STATES OF AMERICA." Only on the reverse of the copper coins were the denominations then included.

Congress used the spelling of "disme" for dime in the 1792 act, even though the reports of Morris, Jefferson, and Hamilton all spelled their 10-cent piece as "dime" (though one early report repeatedly used the spelling of "D-i-m"). By the time of the 1837 act, the spelling returned to that of dime.

The American silver coins under the 1792 statute equated to 371.25/416, or .89243 fine (892.43/1,000^{ths} [or simply 892.43]), with gold being .916667 fine.

As stated earlier, silver and gold coins which were minted were made legal tender at their respective weights, as provided in **Section 16** of the **1792 act**:

"that all the gold and silver coins which shall have been struck at, and issued from the said mint, shall be a lawful tender in all payments whatsoever, those of full weight according to the respective values herein before declared, and those of less than full weight at values proportional to their respective weights."

The gold and silver coins struck in accordance with the 1792 Act were a lawful tender at their respective values according to their actual weight.

A "lawful tender" is that "thing" or those "things" which a debtor may lawfully discharge a debt. The person holding a debt or contract cannot refuse payment in lawful or legal tender when the contract was payable in money (gold clauses will be discussed later).

Congress in 1792 didn't have a pile of gold or silver bullion they could simply start coining and spending into circulation or trading for other "things". The bullion entering the mint for coinage was largely privately owned — individuals brought their gold or silver in one form or another (bullion, foreign coins, gold dust, silver plate, etc.) in for assaying and coining.

Section 14 of the **1792 Act** allowed:

> "That it shall be lawful for any person or persons to bring to the said mint gold and silver bullion, in order to their being coined...free of expense."

The free coinage of money came with a proviso — which was that to obtain one's coins struck free of expense — one had to wait until the mint struck the coin out of the gold or silver actually brought in by the specific individual.

Section 15 of the **1792 act** provided that no preference should be given to any particular person over another, stating that the officers shall strike the coins:

> "in the order in which the said bullion shall have been brought or delivered, giving priority according to priority of delivery only, and without preference to any person".

To ensure proper respect for priority only of delivery, Section 15 further provided that any officer who should provide "undue preference" of improper delivery, shall in each case "forfeit and pay one thousand dollars; to be recovered with costs of suit".

Thus, individual citizens could sue individual officers (at basically their year's salary) who failed in their strict duty to provide the citizen's coins merely in the order the bullion was deposited.

That individual citizens had the explicit right ("standing") to individually enforce a legislative act as it pertained to them empowered them then in ways which Americans today are almost wholly unfamiliar (except in environmental cases, where statutes often specifically allow [nay, encourage] lawsuits, to the chagrin of property owners everywhere).

Those who preferred "an immediate exchange of coins for standard bullion" could get the proper amount of coin "less one half per cent" for defraying the mint's coinage expenses.

The free coinage of money (or half percent fee to cover the cost of striking coin when immediate possession was preferred) allowed private individuals the convenient means to convert their own gold or silver into lawful American money using the government apparatus to ensure honest money which would be readily accepted throughout the country, and eventually the world.

One aspect of a potentially-free coinage was this placed a practical limitation on private mints to the extent that they tended to only operate in areas geographically isolated or where transportation of federal coinage was unduly difficult (the principle being that it is difficult to charge for what the government competently offers for free [unless the mint's backlog was too great]).

The Bechtler mint in North Carolina prospered for many years and provided local inhabitants with private gold coin, until (and even well after) the mint at Dahlonega, Georgia and Charlotte, North Carolina were established in 1838.

It was not until the act of June 8, 1864 (13 Stat. 120) that persons were supposedly prohibited from thereafter privately coining money.

The title of this 1864 act was "An Act to punish and prevent the Counterfeiting of Coin of the United States". Counterfeiting, of course, *is* properly prohibited by various legislative acts and by the Constitution.

The counterfeiting of coin, however, is the false-making of gold or silver coins out of materials other than gold and silver and then attempting to pass them off as of full weight and full value of actual gold or silver, with intent to defraud others (see the criminal act of April 21, 1806 [2 Stat. 404]).

The striking of gold and silver coin of honest weight and purity, even placing the monetary value in accordance with current legislative acts, by private persons is not counterfeiting, nor is it an attempt to defraud others.

The 1864 act thus contains the key phrase "except as now authorized by law", which wording thus exempts from punishment all those persons, entities and firms honestly striking gold and silver coin of full weight and proper purity from punishment (although the stakes were obviously made much greater of being wrong).

By providing the exemption "except as now authorized by law", Congress provided a "none of the above" exemption from this law to anyone and everyone who honestly strikes coin (Congress nevertheless intimidating the meek into steering clear of the issue).

In similar manner to private mints, foreign coin, especially the Spanish milled dollar, passed current as money within the United States for many decades. Foreign and privately-minted coins lessened the pressure on the mint of the United States to strike sufficient coin to meet demand (and even limited the coining of American money, to a fair extent).

The mint, in its early decades (as shown by the mintage statistics in Appendix B in Volume II), coined mainly the silver half-dollar and the gold half-eagle (and the copper penny).

Section 18 of the 1792 act required every year that (any three of which) the Chief Justice of the United States, the Secretary of the Treasury, the Comptroller of the Treasury, the Secretary of State, and the Attorney General of the United States (who were required by the act to attend at Philadelphia) in the presence of the director, assayer and chief coiner of the mint, to watch over an assay of coins specially reserved throughout the year to "better…secure a due conformity of the said gold and silver coins to their respective standards".

If the assays found the coin to be "inferior to their respective standards" at "more than one part in one hundred and forty-four parts", then the said mint officers "shall be deemed disqualified to hold their respective offices".

The test described in Section 18 was merely an assay which would test for proper fineness. Interestingly enough, unlike later coinage acts, the 1792 act did not delineate any specific tolerance based on a coin's weight. Thus quality was properly was tested, but not quantity.

The key to understanding this matter, which perhaps would otherwise appear to be a significant oversight on pressing concern, is, of course, provided in Section 16. Section 16 mandated that a coin's actual legal tender value be its proportional weight of fine gold or fine silver.

The 1792 act thus did not ever expect the gold and silver coins to pass by tale, only by weight and fineness. There was thus no need for providing a tolerance for weight, for any given coin's value of guaranteed fineness would be appropriately determined by its actual weight

(fineness being more difficult to determine, it was thusly guaranteed [to be within one part of 144]).

Section 16 of the 1792 Act made a coin's legal tender value determinate solely upon its proportional weight of (properly-fine) silver or gold; therefore if a coin was of light weight, then it simply was of less value (at its proportional weight).

The expectation of the 1792 Congress was that all interested parties would weigh their silver and gold coins to determine appropriate value; thus the mint was essentially then given a free pass on weight tolerances.

As the decades passed, it became strikingly obvious that Americans preferred the convenience of passing coins by tale; thus later Congresses began establishing and mandating also tolerances for weight.

Even though no specific weight tolerance was provided in the 1792 coinage act, three sections (4, 17 and 19) nevertheless touched on well-establishing the integrity of the coin struck at the mint.

Section 17 provided, in part, that:

> "it shall be the duty of the respective officers of the said mint, carefully and faithfully to use their best endeavors that all the gold and silver Coins which shall be struck at the said mint shall be, as nearly as may be, conformable to the several standards and weights aforesaid…"

Section 17 required the "best endeavors" of the mint officers to make the coins struck at the mint be properly "conformable to the several standards *and weights*", the standards and weight provided earlier in the Sections 9, 12 and 13.

Section 17, coupled with the oath required in Section 4 of every officer and clerk to "faithfully and diligently to perform the duties" of their respective offices, thus put a legal obligation on every officer to properly perform their duties, including conforming the coins struck conformable to their standards and weights.

One can perhaps begin to better appreciate the implications of one's government duty in that era by looking at Section 19, which reads, in part,:

> "that if any of the gold or silver coins...shall be debased...through the default or with the connivance of any of the officers or persons who shall be employed with said mint, for the purpose of profit or gain, or otherwise with fraudulent intent, and if any of the said officers or persons shall embezzle...every such officer or person who shall commit either of the said offences, shall be deemed guilty of a felony, and shall suffer death."

As one can plainly read, Congress were then deadly serious about their solemn role "To coin Money", proscribing the punishment of death to any mint employee convicted of fraudulent intent to debase the gold and silver coins.

It is but a sad epitaph on the tombstone of honest American money that while the Second Congress of the United States in 1792 prescribed the death penalty for any mint officer found guilty of fraudulently debasing lawful tender gold or silver coins struck at the mint, by 1965 the

89th Congress proscribed that all silver should be removed from all future coins struck at the mint (other than 40% silver half-dollars as prescribed for a short period of time [and later by commemorative coins only sold in proof and uncirculated qualities at a premium]) and substituted in our once-proud coinage, base metals as would any counterfeiter.

It is a tragedy that although the early Congress rightly took great pains to prevent debasement even on the smallest of scales, later Congresses explicitly sought after with great abandon.

It seems to be an unwritten law that without proper oversight of an informed citizenry, government denigrates into opposite its original intentions, as government officers divert the means of government — power — to use for their own ends. Sadly, and to our detriment, the coinage of money proved no exception to this disastrous rule.

Section B: 1834, June 28 Act (Chapter 95)

To better understand Congress' power to "regulate the value" of coins struck at the mint (and what will inevitably become necessary when a bi-metallic standard between two metals are fixed to one another at a given parity by law), it is necessary to pay strict attention to the act of June 28, 1834 (4 Stat. 699).

Before Congress enacted the 1792 coinage act, in his 1791 Treasury report on the establishment of the mint, Secretary of the Treasury Alexander Hamilton discounted the potential harm of fixing by law a legal parity between silver and gold. Hamilton took exception to Confederation Superintendent of Finance Robert Morris' earlier report recommendation that a "money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only".

By 1823, however, the present Secretary of the Treasury warned Congress that the gold-to-silver ratio fixed by law (in 1792, at 1:15) differed from actual world market relations then current. He stated in a February 3, 1823 report that 1:16 would minimize further exportation of gold, writing:

> "In terminating this letter I feel it my duty to observe, that the relative current value of gold and silver differs materially from that established by the laws of the United States…If the gold coins of the United States should be made equal in value to sixteen times the value of silver coins of the same quantity of pure silver, they would be exported only when the rate of exchange should be greatly against the United States."
>
> Annals of Congress, Congressional Debates and Proceedings, 17th Congress, Second Session, House of Representatives, Page 859.

House Chairman of the Committee on the Mint William Rochester also reported in 1823 that:

> "gold coins of every description and denomination…have of late been almost entirely banished from our seaport towns".
>
> *Ibid*,. Page 858.

The history of government price-fixing can be seen as a colossal failure from the benefit of hindsight. Whether government wishes to affix a set price to wages, milk, or the ratio of silver-to-gold, the outcome (if carried on long enough) eventually proves the same. The reality that "the only constant is change" is at some point forced upon the government (generally after a good deal of economic turmoil).

The fixed parity of gold-to-silver proved no different well before 1834. One ounce of gold had been fixed by law in 1792 to be monetarily equivalent to 15 ounces of silver. Even though this 1:15 ratio had been accurate in 1792, after a prolonged length of time, it no longer proved to be the case.

New discoveries of silver in Latin America being brought into production lowered silver's value relative to gold worldwide (of course, paper money notes of the State banks also created monetary disparagement [even though the notes were not a legal tender], but that is a matter of another chapter). The stable market of gold relative to a substantial increase in silver

lowered the world price of silver relative to gold to approximately 1:16. The United States, however, continued to provide one ounce of gold for every 15 ounces of silver to all who requested it.

The damage done to the store of gold built up and held by the Treasury and the loss of gold in circulation was severe enough that Congress could not ignore reality past 1834 (if they wished to yet save the bi-metallic monetary standard).

As Hamilton foresaw, but overly discounted, the "dealers in money" had soon found a "profitable traffic in an exchange of metals between the two countries" where one country held gold and silver at market ratios, but the other stubbornly and foolishly held it at a fixed and now-false parity.

Profit-minded individuals shipped large amounts of American gold coin to foreign countries where it was melted for its bullion value (to be there used in foreign coin, for plate, jewelry or other purposes). Payment for the gold was received in silver (or in bills of exchange exchangeable into silver) at the world price where it was valued less, so more of it would be paid for the delivered gold.

This larger amount of silver would then be shipped back to the States, where the individual who had earlier traded for gold with silver now had even more silver than he had before, to trade now for even more gold coin. This "endless chain" of profits continued as long as the U.S. Government had a supply of gold and was indifferent to the true, world gold-to-silver ratio.

As a natural consequence, gold inevitably all but disappeared from American circulation, according to Gresham's Law — "bad money drives out good" (when both are declared equivalent but are not actually), but also that "good money cannot drive out bad".

Money stands opposite of all other assets, which is why monetary quality used in trade succumbs to Gresham's Law. The 19th-century English economist Jevons stated it well:

> "People who want furniture, or books, or clothes, may be trusted to select the best which they can afford, because they are going to keep and use these articles; but with money it is just the opposite. Money is made to go. They want coin, not to keep it in their own pockets, but to pass it off into their neighbor's pockets; and the worse the money which they can get their neighbors to accept, the greater the profit to themselves."
>
> *Money and the Mechanism of Exchange*, William Stanley Jevons, D. Appleton and Co., New York, 1876. Chapter VIII, Paragraph 30.

For a little larceny, we thus rob ourselves of a currency of honest money.

Walter Breen relays (1988, pg. 527) that "over 99% of the pre-1834 mintage was melted" by the action described above. That 99% of all gold coins minted over the previous four decades were melted certainly proves America's experience with Gresham's Law rang true.

When man-made law forces equivalency upon things which are not, people naturally tend to keep the money with more inherent value, and spend first that which has less actual value (but declared by law to have greater value) and once they do spend it, they will spend the money *where* it is appropriately valued.

Soon, the only money actually found in local circulation is this less-stable money which has an artificially-inflated value (at law).

Without government artificially fixing two items, there would not have been any reason for the one item to disappear from use — the market exchange ratio would have simply varied as circumstances changed.

The theory behind a bi-metallic monetary system (the convenience of using coin of the minor metal for smaller purchases, using the coin of the major metal for larger transactions [and thus having more money available with two metals], while yet always being able to use a single money of account) is a convenience which cannot be argued, perhaps even to such extent that its attempt should actually have been tried (at least when the economy was much simpler, and much slower).

Upon deeper reflection, however, the idea that any law made by man can freeze the price relations between any two items to a given set point in time is rather ludicrous.

Congress, with their enumerated power to "regulate the value" of the money they coin, may legally define a coin to be called an *Eagle*, a *Dollar*, a *Zebra*, or any other such name and declare its relative value one-to-another.

By declaring values of the different coins struck in the same metal, a ratio becomes established between them. This does not cause any trouble when the coins are all struck in the same metal at proportional weights to their proportionate values.

It should be specifically mentioned that although Congress may be arbitrary in establishing a name for a coin (eagle, dollar, dime, cent, etc.) and even arbitrary in the establishing the value represented in coin form of a given name (say, a coin of 38 cents or 20 "elbows", if they so-desired), the Constitution does not empower Congress to be arbitrary in establishing the relative value between coins (for then no standard is created). Thus, if a coin has half the weight of a coin of similar precious metal at a given purity, it must have half the value.

The relative value between the various coins of the same metal must be proportional to the defined standard unit, relative to their proportional weights of silver or gold. Anything short of this will cause problems to the degree of which is dependent upon its divergence from it. Think of one foot having 12 inches, but one-fourth of it being but two inches — obviously, improper measure of distance would occur anytime one used the divergent measure. The measure of value is no different if there is not a proportional, consistent standard.

Even though the Constitution appears to have actually intended to empower Congress to affix values between differing metals, Congress (as history amply proves) do not actually have sufficient power in reality to carry it out (at least over time).

The Constitution, by Article I, Section 10, Clause 1, clearly anticipated money being both silver <u>and</u> gold coin.

The Constitution's perhaps savings grace is that money must be a standard of value (and since the "money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only").

Congress are neither immune from, nor above, natural laws or fundamental economic principles; they cannot turn lead into gold nor command water to gush forth out of a dry rock, even if an otherwise-important document stated they could.

That Congress may mistakenly or foolishly declare things have a greater value than they actually do is then but a ticking time bomb. The greater the divergence from actual or relative value from that which they decree, the shorter the length of the fuse and the greater the ultimate devastation.

Neither may Congress affix the relative price of silver-to-gold without inevitably suffering serious consequences, such as here driving one of them from circulation (this author herein acknowledging the temporary painful adjustment from losing one monetary metal from its strict tie to the money of account, though otherwise arguing for its long-term benefit).

One should recall that **Section 9** of the **1792 Act** declared:

> "That there shall be from time to time struck and coined at the said mint, coins of gold, silver, and copper, of the following denominations, values and description…"

The eagles of specified weight and purity of gold were declared to "each…be of the value of ten dollars or units"; a coin of silver of given weight and purity was called out and specified as a "dollar" or "unit"; and the cents of a given weight and purity of copper were declared "each to be of the value of one hundredth part of a dollar".

This section thus provided a legal relationship between coins of three differing metals (gold, silver and copper). Only two of them (gold and silver), however, were actually made a lawful tender.

Of significance was that neither copper cents nor half-cents were declared a legal tender. Yet the copper cent was valued in Section 9 of the 1792 Act at $1/100^{th}$ of a dollar (and half-cents to be "of the value of half a cent").

Though copper coins were not themselves declared a tender, they nevertheless had affixed to them a legal parity to a dollar coin which was a tender.

The 1792 coinage act thus established a bi-metallic monetary standard (of two metals with legal tender status) with a third metal also at a fixed parity. What can be said against the fixing together of two metals is even more obvious and dangerous in the fixing together of three.

The problems which presented in our history from copper being thusly affixed to silver and gold are but a subset and to lesser degree than the fixed parity of silver to gold, and are thus acknowledged but not herein otherwise expounded upon (as the same principles are involved, but generally with less serious consequences, the valuations being much smaller).

This instance of declaring gold and silver coins a tender, while not declaring the copper coins a tender, but nevertheless giving the copper coins a legal value in terms of coins which were a tender, helps show that the declaration of tender is less significant in terms of leading certain metals to disappear from circulation than the relative values instilled in them.

It is not the declaration of tender that has the most significance with reference to circulation of all the metals, but the declaration of the fixed value of a coin of a given metal in

relation to another metal, under the express power to regulate of value of the coins struck in accordance with Article I, Section 8, Clause 5 of the Constitution.

The declaration of tender comes into play on whether a creditor may refuse the tender of the given coin for payment of a debt (thus refusing to accept Congress' valuation of it).

The relative valuations of coins in differing metals determine whether one or more are driven from circulation due to improper valuations; tender laws force the acceptance of that which remains in circulation, at its (or their) declared value.

When the metals are appropriately valued relative one to another, there is no apparent harm, no noticeable foul. When the metals are inappropriately valued, however, tender laws make matters worse for the creditor, as he is forced to accept devalued payment rather than making his own determination of it (although if one metal has disappeared from circulation, he has little real choice but to accept second-best [though perhaps at different rates]).

Although after studying the entirety of the 1792 coinage act it is not overly difficult to realize that the intentions of the Second Congress were noble and just, this yet does not allow them to escape the responsibility or outcome of their actions which failed to meet the proper establishment of an (unchanging) standard of value as otherwise mandated by the Constitution. The affixing by law a fixed parity between three different metals would come back to later haunt their successors.

By 1834, the well-intentioned-but-otherwise-naïve error of the Second Congress as allowed by the Constitution had clearly manifested itself to such extent that the 23rd Congress in 1834 was forced to take some type of action.

Unfortunately, the 23rd Congress proved inherently no wiser, though they again seemed to act with the best of intentions as again evidenced by careful study of the act.

Congress in 1834 enacted a new monetary law to bring current the true gold-to-silver ratio, approximately 1:16 (although some members of Congress contended the true ratio was as low as 1:15 5/8 or somewhere in between that and 1:16).

The act of June 28, 1834 is a brief act with very important consequences, which modified the gold content of the gold coins while providing a new valuation of the old gold coins struck under the 1792 statute.

Though the 1792 eagle (valued at ten dollars) contained 247 4/8ths grains of fine gold in a coin weighing (with alloy) 270 grains, the 1834 eagle (also valued at ten dollars) was lightened to 232 grain of fine gold, in a coin of the standard weight of 258 grains.

Since the gold eagle coins struck under the 1834 act (all the gold coins struck under the 1834 act hereinafter termed "1834 gold coins") contained 15.5 grains less fine gold as compared with that same denomination the old gold coins of struck under the 1792 act ("1792 gold coins"), the act provided that the old 1792 gold coins minted before the effective date of the 1834 act be receivable in payments at a new higher rate.

Though the workings of the 1834 act will at various times seem quite confusing (likely due to this author's inadequate explanation), once one understands the concept, however, the workings are actually fairly simple.

The important principle followed by Congress was to establish an exchange rate between two coins which were different from one another but which otherwise carried the same name (eagle, half-eagle, etc.) at the same monetary valuation (ten dollars, five dollars, etc.) and struck under the same government, so that coins with more gold would be appropriately valued more highly in payment of debts.

It is important to point out that this principle remains entirely consistent with Section 16 of the old 1792 act (which was re-iterated in Section 1 of the new 1834 Act) that the value of a coin was proportionate to its weight and fineness of gold (as with silver).

Section 3 of the 1834 act provided the crucial wording specifically designed to value the 1792 gold coins of greater weight at a new higher valuation rate *in the new dollars*:

> "That all gold coins of the United States, minted anterior to the thirty-first day of July next shall be receivable in all payments at the rate of ninety-four and eight-tenths of a cent per pennyweight."

A "pennyweight", if one recalls, is a unit of weight in the troy weight classification, equal to 24 grains, or 1/20th of a troy ounce (1 troy ounce equals 20 pennyweights [dwt.] or 480 grains).

"Anterior" means "front" or "before." The act provided that gold coins minted before the effective date of the act (July 31, 1834) were to be "receivable in all payments" at a new rate, of 94.8 cents per pennyweight (according to their standard weight [not their fine weight of pure gold]).

The vital piece of information to understand is that the 1792 gold coins valued in dollars (gold eagles and its fractions) are different than the 1834 gold coins also valued in dollars; thus one must specify *which* dollars are being discussed, *because they are not the same thing* (even though they are both struck by the same government).

The new rate (in 1834 dollars) of the old 1792 eagle is determined by multiplying the weight of the 1792 eagle by the exchange rate provided by Congress, to find the value (again in 1834 dollars) of the 1792 eagle.

$$\frac{270\ \cancel{\text{grains}}}{\text{1792 eagle}} \times \frac{\cancel{\text{pennyweight}}}{24\ \cancel{\text{grains}}} \times \frac{\text{94.8 cents (in 1834 eagles)}}{\cancel{\text{pennyweight}}} = \frac{\text{1,066.5 cents (in 1834 eagles)}}{\text{1792 eagle}}$$

94.8 cents per pennyweight of standard gold means the 1792 eagles were now worth $10.665 in terms of the new 1834 eagles**.**

It is not necessarily important for every reader to precisely follow all the mathematical proofs hereinafter discussed under the 1834 (and 1837) act(s); what is of vital importance to understand, however, is that monetary value is capable of being mathematical determined within an objective system of established standards.

Through all the varied information hereinafter discussed, it is also best to keep one's mind wrapped around the concept that it was the value of the gold dollar which changed, not that gold itself was made any more valuable (as one will see, the value of each grain of gold in the 1792 eagle was the same as the value of each grain of gold in the 1834 eagle [as measured in each dollar], the former simply had more gold, so it was worth more of the new dollars).

It is also important to realize that even though the old 1792 eagles originally carried a value of ten dollars (in 1792 "dollars"), no one could any longer look to that declared value for its current value (in 1834 "dollars"), for that old rate was made obsolete with the new valuation rate of those old 1792 eagles.

One should also note that since the exchange rate provided by Congress in 1834 was valued according to the *standard* weight of the 1792 gold coins under a .916667 fineness (247.5 grains fine in the coin of 270 grains total weight, with alloy), that the "94.8 cents per pennyweight" provided in the 1834 law for the 1792 gold coins cannot therefore also be used to determine the pennyweight valuation of the 1834 gold coins (since their gold standard was .899225 fine, as determined by 232/258).

To determine the rate in *cents per pennyweight* of 1834 eagles for curiosity's sake, one divides the value by the number of grains of standard gold, as shown below.

$$\frac{1{,}000\text{ cents}}{\cancel{\text{1834 eagle}}} \times \frac{\cancel{\text{1834 eagle}}}{258\ \cancel{\text{grains}}\ \text{of standard gold}} \times \frac{24\ \cancel{\text{grains}}}{\text{pennyweight}} = \frac{93\text{ cents}}{\text{pennyweight of standard gold}}$$

Recall, however, that alloy adds no value to any coin, thus it is important to determine the amount of fine gold in each of the two coins (in 1834 cents).

$$\text{1792 eagles} = \frac{94.8\text{ cents}}{\text{per pennyweight of standard gold}} \div \text{.916667 fineness} = \frac{103.4\text{ cents}}{\text{per pennyweight of fine gold}}$$

$$\text{1834 eagles} = \frac{93\text{ cents}}{\text{per pennyweight of standard gold}} \div \text{.899225 fineness} = \frac{103.4\text{ cents}}{\text{per pennyweight of fine gold}}$$

As one can see, the value per unit of fine gold *is* the same under both acts; it is merely the differing amount of fine gold in the various coins which accounts for their differing worth ($10.665 exchange rate for the 1792 eagles of 247.5 grains of fine gold, $10 for the 1834 eagles of 232 grains of fine gold).

To verify this truth, one may also work backwards using the valuation of "94.8 cents per pennyweight of 1792 eagles" but with the weight of the 1834 eagles, but accounting for the differing standard of gold of each:

$$\frac{258\ \cancel{\text{grains}}}{\text{1834 eagle}} \times \frac{\cancel{\text{pennyweight}}}{24\ \cancel{\text{grains}}} \times \frac{94.8\text{ cents}}{\cancel{\text{pennyweight}}} = \frac{1{,}019.10\text{ cents}}{\text{1834 eagle}}$$

$$\frac{1{,}019.10 \text{ cents}}{1834 \text{ eagle}} \times \frac{.899225\ (232/258)}{.916667\ (247.5/270)} = \frac{999.70909 \text{ cents}}{1834 \text{ eagle}}$$

By this proof, one sees that fine gold is actually valued the same under both acts, even though the valuations of gold in a differing standard were provided.

As detailed in the 1834 act, and as proved above, the 1834 eagle of 232 grains of fine gold is worth ten dollars (~1,000 cents), while the 1792 eagle of 258 grains was worth 1,066.5 cents or $10.665 (in those 1834 dollars).

$9.9970909 would be as close as the mint could practically come to $10.00 (only off by 3/1,000$^{\text{ths}}$ of one dollar; less than one-half a cent).

Where this difference may become statistically significant, of course, would be in very large payments.

Such creditors who were owed large amounts where this could be significant still had Section 1 of the 1834 act to fall back upon, which (like Section 16 of the 1792 act) again declared that coins "of less than full weight" be valued "proportioned to their respective actual weights".

Thus, creditors could weigh the gold coins paid them and receive their appropriate proportional value, such as a creditor being owed the equivalent of $3,000 in gold (before 1834, but here rated in 1834 dollars for the sake of simplicity) could demand payment of $3,001 by weight (not that there was yet struck a gold dollar, however). Those persons figuring an extra dollar was worth their time of precisely weighing all the 300 gold eagles (or 600 half- or 1200 quarter- eagles [or of some combination thereof]) being paid were certainly welcome to weigh the coins, however, to get every grain of gold they were legally due.

The value of 1792 gold coins of 94.8 cents per pennyweight was the value of those coins given in terms of the 1834 gold coins. It is informative to determine the old 1792 rate of gold coins in 1792 gold dollars, as shown below:

$$\frac{\text{ten } \cancel{\text{dollars}}}{270\ \cancel{\text{grains}} \text{ of standard gold}} \times \frac{100 \text{ cents}}{\cancel{\text{dollar}}} \times \frac{24\ \cancel{\text{grains}}}{\text{pennyweight}} = \frac{88.8888 \text{ cents}}{\text{pennyweight of standard gold}}$$

94.8 cents per pennyweight was the explicit "exchange rate" listed in the 1834 act for the 1792 gold coins (valued in 1834 dollars).

Valued in 1792 dollars, however, the 1792 eagles were originally worth only 88.8888 cents per pennyweight of that standard of gold (again, in terms of those old 1792 gold dollars).

88.88 cents per pennyweight in 1792 dollars is obviously different than 94.8 cents per pennyweight in 1834 dollars. Since a pennyweight — 24 grains — (of gold) remained

unchanged, obviously it was (the value of) the dollar which changed. The 1834 dollar bought or contained less gold than the 1792 dollar.

The differing rates 88.88 cents in 1792 or 94.8 cents per pennyweight in 1834 is perhaps somewhat difficult to grasp partly because of people's unfamiliarity with a *pennyweight*.

It is therefore perhaps appropriate to look at equivalent valuations of other units in the troy weight classification system, of cents per *grain* and dollars per *ounce*.

Since there are 20 pennyweights per troy ounce, 20 times the value provided of 94.8 cents/pennyweight comes up with 1,896 cents/troy ounce of standard gold, or $18.96 per ounce (of standard gold).

$$\frac{94.8\ \cancel{\text{cents}}}{\cancel{\text{Pennyweight}}} \times \frac{20\ \cancel{\text{pennyweights}}}{\text{troy ounce}} \times \frac{\text{dollar}}{100\ \cancel{\text{cents}}} = \frac{\$18.96\ \text{(1834 dollars)}}{\text{troy ounce of standard gold}}$$

The 1792 act minted gold coins at the standard of .916667 fineness (247.5/270); thus at the new 1834 rate of 94.8 cents per pennyweight of standard gold for the 1792 gold coins, this directly equates pure gold thusly valued at $20.68/troy ounce of fine gold, as shown by the proof below (please note that under the Act of January 18, 1837, fine gold became valued at its long-used historic rate of $20.67/ounce):

$$\frac{\$18.96\ \text{(1834 dollars)}}{\text{troy ounce of}\ \cancel{\text{standard gold}}} \div \frac{\cancel{\text{Standard gold}}}{.916667\ \text{fine gold}} = \frac{\$20.683561\ \text{(1834 dollars)}}{\text{troy ounce of fine gold}}$$

To determine the old 1792 rate per ounce of gold, one may take the value of ten dollars and the weight of 247.5 grains and multiply it by the rate of 480 grains per troy ounce, to come up with $19.39 per ounce of fine gold, as shown in the equation below:

$$\frac{\text{ten dollars}}{247.5\ \cancel{\text{grains}}\ \text{of fine gold}} \times \frac{480\ \cancel{\text{grains}}}{\text{ounce}} = \frac{\$19.3939\ \text{(1792 dollars)}}{\text{troy ounce of fine gold}}$$

From the above equations, one sees that the value per ounce of fine gold rose, as determined by the value of a dollar, between 1792 and 1834; one troy ounce of fine gold was worth $19.39 in 1792 dollars and $20.68 in 1834 dollars.

Obviously, since the troy ounce of fine gold itself remain unchanged (a troy ounce remains a troy ounce), it was thus the (purchasing power of a) dollar which actually changed, by each dollar buying or containing less gold than it did before.

It is perhaps helpful to understand this principle by looking at the value of each grain of fine gold. The value of each grain of pure gold found in the 1792 eagle (in the value of 1834 eagles) is determined by the following equation:

$$\text{1792 eagle} = \frac{\text{1066.5 cents}}{\text{247.5 grains}} = \frac{\text{4.3090909 cents}}{\text{grain of fine gold}}$$

One can then easily verify that the 1834 eagles were also valued at the same value per grain of fine gold:

$$\frac{\text{4.3090909 cents}}{\cancel{\text{grain}}} \quad X \quad \frac{\text{232 } \cancel{\text{grains}}}{\text{1834 eagle}} = \frac{\text{999.70909 cents}}{\text{1834 eagle}}$$

999.70909 cents per 1834 eagle is the same rate as determined earlier, working from the valuation rate of “94.8 cents per pennyweight of 1792 eagles”, but accounting for the differing standard of gold of them and the 1834 eagle.

The rates of gold of 94.8 cents per pennyweight (of standard gold) or 4.30909 cents per grain (of fine gold) or \$20.68 per ounce (of fine gold) were determined from 1834’s valuation of a dollar.

As we saw earlier, however, this is not equivalent as determined from 1792’s valuation of gold per dollar, which value of each grain of gold in the 1792 eagle in terms of the 1792 eagle can be determined as shown below:

$$\frac{\text{Ten } \cancel{\text{dollars per 1792 eagle}}}{\text{247.5 grains of fine gold } \cancel{\text{per 1792 eagle}}} \quad X \quad \frac{\text{100 cents}}{\text{one } \cancel{\text{dollar}}} = \frac{\text{4.040404 cents}}{\text{grain of fine gold}}$$

Out of curiosity, it is interesting to see the amount of gold one cent would buy under each of the coinage acts, determined below to be:

$$\text{Value per grain of fine gold in the 1792 eagle} = \frac{\text{4.040404 cents}}{\text{1 grain of fine gold}} \div 4.040404 = \frac{\text{1 cent}}{\text{.2475 grains}}$$

$$\text{Value per grain of fine gold in the 1834 eagle} = \frac{\text{4.3090909 cents}}{\text{grain of fine gold}} \div 4.3090909 = \frac{\text{1 cent}}{\text{.232068 grains}}$$

A penny, just like the dollar, bought (contained) less gold in 1834 than before. Thus, they were devalued.

Looking at Section 3 of the 1834 act again after contemplating some of its ramifications above, one finds that the explicit value provided the old gold coins was not tied in 1834 to any dollar value at a convenient, even and well-rounded values (such as the ten dollar eagle), but that

each pennyweight of gold in the coin — every 24 grains of standard gold — were valued at 94.8 cents, reading:

> "That all gold coins of the United States, minted anterior to the thirty-first day of July next shall be receivable in all payments at the rate of ninety-four and eight-tenths of a cent per pennyweight."

The 1792 act varied the number of grains of gold or silver (at given fineness) to come up with coins at convenient dollar increments, such as one dollar silver or ten dollar gold coins.

The 1834 Act, however, looked only at a given unit in the troy weight classification (a pennyweight of 24 grains) and provided a precise value for it, even though this value wasn't conveniently rounded for handy use and ease of understanding ($10.665 per 1792 eagle).

The 1834 Act directly equated a unit in the troy weight classification of gold at an established standard (.916667 fineness) with its given legal tender value. In other words, the 1834 act directly provided a **given monetary value** to a **given weight of gold** (in the standard fineness), <u>for as clear an idea which ever presented itself</u>, of money being but an amount of gold or silver (at standard fineness [which itself is valued only according to its absolute purity of gold or silver]).

Stated this way, it is patently obvious that the legal tender value of any given coin would be determined solely by its weight of precious metal, period. Thus, a base-metal coin without gold or silver would not be of any monetary value; neither would a slip of paper.

This book is written much to prove that constitutional money is but gold and silver coin (while yet arguing that money should strictly only be one of the metals, with the second metal coined without any specific fixed monetary value).

The original 1792 monetary act provided that any gold or silver coin that was less than full weight would only be receivable at its proportional weight, rather than their face value. This is the true nature of the early congressional monetary acts — the face value of the coin was merely provided for "convenience".

The stated face value of 1792 gold coins could not be solely used to determine actual lawful value under the 1792 act, nor at all, after passage of the 1834 act. The actual legal value of 1792 gold coins was determined only according to their actual weight and fineness.

The 1834 act kept this principle alive and now further re-emphasized it, for obviously the coins minted under the 1834 act were "less than full weight" in comparison to coins struck under the 1792 statute (they were 15.5 grains lighter, in fact, in each eagle).

This 1834 act followed the legal principles set forth of the original coinage statute and valued the coins only according to their actual weight of standard gold (which itself was valued only on consideration of its actual weight of fine gold).

The 1834 act then actually went one step further, and valued older coins of gold literally only according to the actual troy weight of gold (at their specified fineness standard).

As the monetary standard of the older gold coins became obsolete at their old valuation rate (of ten dollars per eagle), these coins needed to be brought into proper relation with the new current standard (also ten dollars per eagle). 94.8 cents per pennyweight was the exchange rate provided to make the 1792 gold coins current in their valuation with the new 1834 gold coins.

Congress chose the valuation rate of 94.8 cents per pennyweight (of standard gold) in the 1834 act, but they could have just as well stated that the 1792 gold would be worth ($20.68) per ounce (of fine gold) or (4.30909 cents) per grain (of fine gold [or, appropriately, in their equivalent rates in standard gold]).

When gold is valued at a rate per ounce, per pennyweight, or per grain, it is patently obvious that value is directly tied to weight. The act of 1834 tied the value of gold to the pennyweight (of standard gold); directly tying the value of 1792 gold coins to their actual weight (and fineness).

The value of each grain of gold, though different under each of the two acts (4.3 cents of 4.04 cents) because of the changing reference point (1792 gold dollars or 1834 gold dollars), nevertheless is equivalent per grain of fine gold in the dollar of either era. Again, it was not really that gold gained value, but that the dollar lost (gold) value.

It was no longer that the face value of the coin which actually gave it its lawful value; it was the amount of gold or silver in it, period. Any coin that had been debased, clipped, or otherwise lightened — even when lightened by operation of law — is legally valued only at its true content of pure gold or silver.

As one can see from all the equations above, each 1834 cent or dollar bought less gold then it did in 1792.

Gold rose in monetary value between 1792 and 1834, as the 1834 dollar bought less gold than did the 1792 dollar.

This, of course, seems little different than monetary inflation today being but a devaluation of the dollar (not that the dollar used today is tied to gold).

What is different from price inflation/monetary devaluation of today is that in 1834, this was an intentional act of Congress which purposefully established two differing dollars <u>with formal exchange rates between them</u> (rather than imperceptible devaluations of a single dollar occurring over time).

Somewhat as the Canadian dollar is foreign to (and not the same thing as) the American dollar and an exchange rate is necessary to trade between the two, so too was the 1792 dollar different from and even foreign to the 1834 dollar (even though they were both struck by the same government).

The critical difference between price inflation/monetary devaluation then and now was that in 1834, although that new 1834 "dollar" itself bought less gold; *the gold itself in either coin itself <u>was not devalued in any way, shape, or form.</u>*

What is shown in all the equations above from so many angles is that due to the exchange rate provided by Congress, gold lost no purchasing power whatsoever (because 1792 gold eagles

were worth more [$10.665] in terms of the new dollars) even though the dollar did lose purchasing power (by buying fewer grains of gold for the same nominal amount of money).

Anyone thus claiming today that the 1834 Congress diminished the purchasing power of gold or that the luster of gold was tarnished is either sadly mistaken or is being intentionally deceitful. Gold did not lose its purchasing power one iota, though the dollar did lose purchasing power.

It is of vital importance to realize that with Section 3 and its command that all old gold coins "shall be receivable in all payments at the rate of ninety-four and eight-tenths of a cent per pennyweight", that Congress in 1834 was over-riding the stated value of $10 of the 1792 gold eagles (and fractional coins of proportional value).

In 1834, the original face value of the old gold coins (even those with a valuation struck on the face of the coin) became wholly obsolete, and the old face value of $10.00 no longer had any direct meaning.

In effect, Congress in 1834 was again declaring, AND NOW EMPHASIZING, that it was not the stated *face* value of the respective coin which gave the coin its legal tender value, but instead only the *actual weight* of gold in any specific gold coin, just as they first declared in **Section 16** of the **Act of 1792**, where they had there stated that:

> "all the gold and silver coins … shall be a lawful tender in all payments whatsoever, those of full weight according to the respective values herein before declared, and *those of less than full weight at values proportional to their respective weights*."

Section 3 of the 1834 act was the necessary step for maintaining a fixed parity between two metals (that had gone out of whack) that mandated an exchange rate between two coins which were foreign to one another be used anytime these older coins were used.

Sadly, but perhaps understandably, Americans today have totally bought off on the concept that the stated "face value" struck on a coin determines its value, even though no gold or silver coin are any longer struck for general circulation (commemorative coins do not have general circulation).

Though Hamilton wrote that his fellow Americans were least likely out of all the peoples on earth to be made the "dupes of sounds" from the practice of "substituting names for things", sadly this is exactly what Americans today have become and how. Substituting terms such as "money" and "dollar" for things such as base metal, paper and ink in the 20th century has impoverished our once-great country.

The clever foxes in the hen house are the counterfeiters who have taken over the mint and few people know any difference because of their callous indifference of solid constitutional principles.

America's early monetary acts took only the true nature of the coin into consideration. The fact that a coin of silver claimed to be worth a dollar did not make it so — it had to have 416

grains of 1,485/1,664ths fine silver (371.25 grains of fine silver) before it was actually worth one dollar. Substance is what mattered; not its name, nor its declared value.

The 1834 Act was a necessary adjustment of the gold-to-silver parity which had changed in the world market since the 1792 Act was enacted. Congress, within their rightful role to coin money and regulate the value thereof, changed the value of the gold coins to their true, then-current relationship to silver (though sadly, not severing the fixed parity which was beyond their rightful role).

Better would have it been to ignore the situation, and let the metal which was undergoing a world-wide drop in value in its purchasing power become the sole monetary metal in circulation by default, which would eventually find an appropriate equilibrium value.

The best solution, of course, would have been to earlier make only one metal the single money of account (so all the coin previously struck had not been melted).

It would still be appropriate for the mint to continue to strike coins of both silver and gold (and perhaps, but not necessarily, copper), only there would not have had any fixed parity between the two (or three) metals, nor would the units of one be equal at some ratio in the units of the other (no tie of ten silver dollars to one gold eagle, etc.).

A money of account in a single monetary-metal from an early period in our American history would have made it much more difficult to remove all precious metal from our money as which later occurred.

As our American history ultimately unfolded, the problems inherent in a bi-metallic monetary system set up a series of conditions which later effectively aided the removal of *both* monetary metals from our coin and thus our money.

Alexander Hamilton proposed that using only one monetary metal would destroy the "office and character" of the other as money, reducing this non-used metal to the "situation of a mere merchandise".

Obviously, to destroy the "office and character" of only one precious metal would be far superior than the loss of both, which was later instituted and helped in no small part due to the improper support of an unworkable, two-metal system of money.

Another reason for the difficulty for Americans today to understand what transpired in 1834 was that Congress only worked indirectly on their "cure".

Recall that it was the value of silver which fell from new discoveries being brought into production. However, Congress did not change the silver coins, but gold, which itself had not undergone any direct change in value.

Thus, since the silver coins were not changed by the 1834 act (increased in weight or decreased in value), the gold in the new eagles did increase in dollar worth (in terms of the new dollar) by decreasing the weight of gold in a coin of an unchanged dollar value.

The workings of the 1834 act changed the gold-to-silver ratio from precisely 1:15 to roughly 1:16 (the 1834 act did not set a precise ounce-to-ounce ratio as did the 1792 act [and since the new level was no longer precisely fixed by law between the two metals, the level of

precision between the two metals was no longer necessary as was found earlier with 1,485 parts silver in 1,664 parts]).

This 1:16 ratio is verified by dividing the silver weight of 10 silver dollars (10 is used because this is the number of dollars in an eagle) by the weight of gold in the eagle.

$$\frac{371.25 \text{ fine grains silver (per dollar) X } 10}{232 \text{ fine grains of gold (per eagle)}} = \frac{16.002155 \text{ grains silver}}{\text{grain of gold}}$$

The act reduced the gold content of the gold coin, thereby making gold more valuable in relation to the existing unchanged silver coins, to meet the more accurate relations in the real world.

With silver production increasing worldwide in the early 1830's, the value of silver decreased some seven percent, relative to gold. To attack the problem directly would have thus been to leave alone the gold coins, but to add some seven percent more fine silver to a new, heavier dollar coin (and its fractions), or to make the existing silver coins worth less.

The first alternative would have rightfully added more of the metal which had fallen in value relative to the more stable metal, so that a new, heavier silver dollar coin at a rounded figure would once again be equal to the value of one-tenth of the (unchanged) gold $10 eagle (now at $1/16^{th}$ ratio, grain-to-grain).

The mint didn't take the direct route of adding more silver to the silver coins, however, for several politically-expedient reasons. Unfortunately for the modern reader, however, the lack of a direct route complicates understanding.

The first matter a direct route of increasing the amount of silver in the silver coins would have confronted Congress with is that it would have been a very tough sale to the public indeed, to ask each person to deposit their silver in the mint at the ratio of 100 silver dollars, so the mint could melt them down and re-strike some 93 new, heavier silver dollars to return to the depositor.

One could imagine there wouldn't have been much of a long line at the mint, with a corresponding loss in the trade of some seven dollars. For some odd reason, it just doesn't seem likely that one would find many willing takers to a direct route to correct the gold-to-silver ratio.

Thus, one finds that the bi-metallic monetary standard tends to lighten coins, never increasing their weight (as periodic re-adjustments to the fixed parity become necessary).

That people would inherently find such a request repulsive and contrary to their financial interest helps show the futility of maintaining a bi-metallic monetary standard. That the 1834 Congress didn't pursue this route should have provided them with a strong indicator that something was amiss with the bi-metallic standard itself (that even though such corrections became inevitable, they couldn't be addressed in a simple yet direct manner).

The second reason for not taking a direct approach in attempting to correct the problem is a pragmatic one, one sufficient by itself as a reason not to attempt it.

With 99% of all the gold coins taken overseas and melted (because Congress did not act soon enough), the last thing one would likely want to do at this point is to begin removing some of the silver coin from circulation (for re-minting into new, heavier coin). The loss of gold coin

in circulation was sufficiently harmful in the short-term by itself; one would not want to begin removing even more money (now silver coin) from circulation intentionally. There was no sense whatsoever to (temporarily) deepen a monetary shortage by purposefully decreasing available money.

Plus, since new gold coins had to be re-struck anyway (as there were none then available in circulation), it was a fair argument just to re-strike them in a new, lighter weight (rather than take existing silver coinage which was otherwise in good condition, and re-strike it at greater weight).

Section 3 of the 1834 act established the exchange rate between the old and new gold coin specifically to prevent people from receiving less value from their gold than they ought, but this only really kept values equivalent of gold, not silver (as shown by the example above of turning in 100 silver dollars to get back roughly 93 heavier ones).

Since the silver-to-gold equivalency rate was being purposefully changed, silver obviously couldn't stay at the same old ratio, or else nothing would have changed.

Section 3 of the 1834 act took care of people who yet had gold in their pockets quite well; for their gold completely retained all of its original purchasing power, it being worth more in terms of the new, devalued dollar. This doesn't tell the whole story, however.

Recall that most all the gold coins thus far minted had been melted, so only silver coin remained in general circulation. Thus, a person's remaining liquid wealth was perhaps placed primarily in silver (paper notes are another matter entirely, discussed in Chapter 10), and thus these persons were exposed to suffer when silver lost some seven percent of its value.

People with their wealth stored in silver thus appeared to suffer from the 1834 act, as shown further by the following hypothetical example.

For some 40 years (from their first minting in 1794 to early 1834), if John Doe owned 150 silver dollars, he was legally entitled to obtain fifteen 247.5-grain-fine-gold eagles in exchange, equating to 3,712.5 grains of fine gold (247.5 X 15), as shown below (figuring at 1792 gold-to-silver rates):

$$150 \text{ silver } \cancel{\text{dollars}} \quad \text{X} \quad \frac{371.25 \text{ grains of fine silver}}{\cancel{\text{dollar}}} \quad = \quad 55{,}687.5 \text{ grains of silver;}$$

$$55{,}687.5 \text{ grains } \cancel{\text{silver}} \quad \text{X} \quad \frac{1 \; \cancel{\text{ounce}} \text{ of gold}}{15 \; \cancel{\text{ounces of silver}}} \quad = \quad 3{,}712.5 \text{ grains of gold;}$$

$$3{,}712.5 \; \cancel{\text{grains of}} \text{ gold} \quad \text{X} \quad \frac{\text{eagle}}{247.5 \; \cancel{\text{grains}}} \quad = \quad 15 \text{ (1792) gold eagles.}$$

Mr. Doe's 150 silver dollars were legally equivalent for four decades to 3,712.5 grains of fine gold, equal to fifteen 1792 gold eagles.

The 1834 eagle was lightened from 247 4/8^{ths} grains of fine gold to 232 grains. The standard weight changed from 270 grains standard gold to 258 grains. The gold/silver ratio changed from exactly 1:15 to approximately 1:16.

Under the 1834 act, with 16 ounces of silver roughly equating to 1 ounce of gold, Mr. Doe's 150 silver dollars would only give him 3,480 grains of gold, as proved by the following (figured at 1834 gold-to-silver rates):

$$150 \text{ silver } \cancel{\text{dollars}} \times \frac{371.25 \text{ grains of fine silver}}{\cancel{\text{dollar}}} = 55{,}687.5 \text{ grains of silver;}$$

$$55{,}687.5 \text{ grains } \cancel{\text{silver}} \times \frac{\text{ounce of gold}}{16.002155 \text{ ounces } \cancel{\text{of silver}}} = 3{,}480 \text{ grains of gold;}$$

$$3{,}480 \text{ } \cancel{\text{grains of}} \text{ gold} \times \frac{\text{eagle}}{232 \text{ } \cancel{\text{grains}}} = 15 \text{ (1834) gold eagles.}$$

Since 150 silver dollars once equated with 3,712.5 grains of fine gold under the 1792 Act but now only equates with 3,480 grains under the 1834 act, it is thus apparent that Mr. Doe is missing a full eagle's worth of gold, $10 (232 grains of fine gold) from his store of silver. Since 150 silver dollars is ten times the rate of 15, Mr. Doe would be expected to have ten times the loss (as the 1:15 ratio changes).

First of all, before we analyze the situation further, it should be pointed out again that most all pre-1834 American gold coins had been melted for bullion by the time the 1834 act was enacted.

In other words, in essence, there were no longer <u>any</u> gold coins in circulation that could have been traded by mid-1834 for 15 ounces of silver. Therefore, Mr. Doe, in the example above with his 150 silver dollars, though he may have been legally entitled to fifteen 1792 eagles, by 1834, he would have been virtually unable to find any.

The 1792 act fixed gold to be monetarily equivalent to 15 ounces of silver. This, of course, was Congress' first fatal mistake.

The 1834 law essentially fixed gold to be monetarily equivalent to 16 ounces of silver (when they left the 1792 silver dollar unchanged and created a new gold eagle of lowered weight and declared it a tender valued at ten dollars). This was their second mistake.

Law, no matter how naively well-meaning, cannot fix the relationship between any two items and cast it in stone and expect there not be sacrificial lambs at future some point in time, where there will then be no good answers.

Mistakes aside, further analysis of the 1834 act is necessary to see if *it* actually *created* the ultimate problem that itself caused sacrificial lambs.

In 1792, economic reality dictated that gold in the marketplace was monetarily equivalent to 15 ounces of silver. This was the ratio enacted by Congress (principles against price-fixing aside).

By the 1820's and 1830's, large finds of silver brought into production without similar large discoveries in gold changed the actual world relationship of gold-to-silver essentially to 1:16. Congress had yet to change the relationship to reflect true market relationships. The realities of consensus-style politics will almost always make laws slower to change to the realities of the world — as one cannot always accurately forecast the future, neither can the group — including (or perhaps especially) Congress.

If Congress would have changed the law sooner, say when the actual ratio of silver-to-gold was 15 ½:1, then it would have taken 155 silver dollars to have 10 eagles. If Congress could have somehow kept the ratio between silver and gold all along to their actual relationship in the marketplace, then no one could ever really justify blaming Congress for their own loss as the true silver-to-gold relationship changed.

In the interim between new production rates of large amounts of silver until enacting a new monetary law, certain individuals who understood the true nature of relationships between two items are given a slam-dunk profit virtually guaranteed by law. This law amounts in practice to be a subsidy.

The purpose of enacting the 1834 law was then to change the law to reflect the true economic relationship of gold-to-silver world-wide. The effect of the law was to remove the prior subsidy that was never intended by the law to occur in the first place. Ample evidence from the early treasury reports shows that there was never any intention whatsoever to fix the parity between the two metals at any other rate than at their true world market rates.

Human nature is such that it is likely those grown accustomed to a subsidy will cry "foul" when the subsidy is removed. Human nature is also such that those who are insulated from reality by prior improper government action will cry "foul" when the un-authorized protection is properly removed (even if they didn't intend a subsidy).

By the true definition of a sacrificial lamb, the 1834 act itself didn't create any. It simply removed the prior subsidy — and removed the earlier, improper protection from the harsh economic reality of change.

What those who claim they were robbed by the 1834 act are really saying is that the United States owes them a permanent subsidy, of affixing at law that which cannot be fixed, to be protected from the harsh realities of a changing world.

These persons demanding subsidy are, in essence, saying that the United States owes them daylight in the evening; that they shouldn't have to buy candles or pay for electricity, especially if the government mistakenly promised them the sun would never go down on them while Congress sat in session.

What the 1834 act actually did was merely to change the law to reflect the true world market relations. In truth, the actual market relations of new discoveries of large amounts of silver lowered its world price in relation to gold. The price of silver (reflected in gold) fell by appropriate amount until a new equilibrium price was found, some seven percent loss.

What this shows is that silver fell in relation to gold; thus it is appropriate that those who held their liquid wealth in a monetary metal which fell in value because of large increases of it were found and brought into production to suffer a corresponding loss in the purchasing power of their stored wealth.

What the 1834 act therefore did was to remove the prior shelter from reality which the 1792 act temporarily provided. It is inappropriate that law should attempt to shelter persons from the reality of the marketplace.

What the world conditions and a comparison between the 1792 and 1834 acts also show is that when money expands in relation to other things which did not expand to a similar degree (expanded less, stayed the same, or fell), that its value falls. As the 1834 act proves, this is true even with honest money.

Again, money is simply the most liquid form of property and is therefore a store of one's wealth. However, money's ultimate use as a store of value is to be traded for other goods or services when the time is right. For example, as one becomes hungry, food would rise in relative value on one's subjective scale of importance, and one would decide to give up some of one's gold for food. As one becomes thirsty, the same would apply and one would buy something to drink. As one gets cold, more clothing or shelter from the elements increases in desire. As one tires, a bed looks mighty inviting.

If one could adequately forecast one's future needs in goods and services, then it would make a good deal of sense to store up those goods directly, or pre-pay for services later desired, as possible, rather than attempt to use money of questionable value indirectly later.

However, even if one could accurately forecast future demand, some things still wouldn't work well: most foods rot; water evaporates, grows stale or becomes contaminated; iron rusts; a work-horse cannot be easily divided (while still maintaining its use, at least), etc.

Money is that which best holds its value and best serves as a store of wealth over time and distance, that is divisible, of concentrated or compact value, widely accepted, easily recognizable, and does not rot, rust, or fade away, etc. The attributes of gold and silver have for thousands of years made them the money of choice throughout the world in virtually all settings.

If the supply of money increases greater than the increase of those other things of value, its own relative value will fall. This shows that even honest money of gold or silver can still become devalued relative to other available goods and services — it can be and is inflationary if large discoveries of either monetary metal bring increased production of it into the market, relative to a more-stationary increase in other goods (or if gold or silver stores remain the same, but goods are destroyed and services curtailed).

The greatest benefit of silver and gold over paper and ink is the former two must be located, mined, transported, assayed, purified, alloyed and struck into coin, etc., which greatly decreases the chance of significant increases (especially from political whim).

If flakes of gold or silver mysteriously began and continued falling from the sky as manna from heaven, however, their use as a stable monetary metal would evaporate as they became increasingly well-laden.

It is not merely more money — even gold or silver — which increases one's wealth, it is more wealth which increases one's wealth. Stable money increases wealth only because its relative monetary stability is a vital pre-condition for a growth in available goods.

Prosperity is best supported by free enterprise, where the individual (the only true minority) decides his fate with a minimum of government intervention, where government predominantly restricts itself to enforcing contracts and protecting life and property from the initiation of violence.

A government which focuses its powers against force and fraud best promotes wealth accumulation, which places the fewest barriers against those who would otherwise better their lives without harming others.

Increases in money (especially paper claims to money which can be printed at political whim) without at least similar increases in goods may make people temporarily feel more wealthy, at least until they later find that prices mysteriously rose to a new parity with available goods.

Those persons spending first the large increases of new money (when items are still priced in the old relations of goods-to-money) benefit the greatest. With a fiat currency, those with the greatest political pull often receive the greatest political benefit, and thus obtain an inappropriate share of wealth for themselves, at the expense of those who purchase last (when all goods are re-priced relative to available money).

The 1834 act removed the inappropriate shelter from market forces which were previously enjoyed by people who, in effect, choose to bury their collective heads in the sands of price fixing.

The 1834 act lightened the gold coins while otherwise holding their value, thus indirectly lowering the relative value of silver, just as the true world relations otherwise dictated.

Those who held a share of their wealth in a metal which happened to fall in value suffered a loss. The 1834 act simply removed the protective veil from reality which was neither Congress' rightful job to evade, nor provide (and which could not be provided except at someone else's expense).

It was not the 1834 act which caused those holding their wealth in silver to suffer a loss of value, but the 1834 act did certainly cast off the people's inappropriate blinders. Any persons who opposed the 1834 act merely sought to kill the messenger, simply because they didn't like the message.

Congress were to blame, of course, for fixing the prices between silver and gold in the first place, which would later drive one of them from circulation. This was their blame in 1792 and this was again their blame in 1834. However, this would not generally be why people were perhaps angry at Congress, if any actually were. They were really only mad at Congress because Congress didn't have sufficient power as claimed.

The wizard, though initially appearing awe-inspiring, in the end proved but a powerless fraud. Like the alchemists of old who sought to turn lead into gold, the 1792 and 1834 Congresses foolishly thought they had the power to equate silver with gold (at fixed parity).

Hamilton spent more time than other treasury report writers on the topic of gold-to-silver ratio. He argued that "the evils of a scanty circulation" from "destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise" would "probably, be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals."

By 1834, Hamilton and his fellow dual-metal money alchemists were squarely and flatly proved wrong.

By 1834, where there had once been two functioning monetary metals, there remained now only one — the one precisely undergoing worldwide increase, no less. The less-stable metal had become the de facto monetary standard, and then only after causing a fair amount of economic calamity (and this was from a change of only 1:15 to 1:16 [imagine if it went 1:30 or 1:10]).

Hamilton acknowledged the "consequence of overvaluing either metal, in respect to the other, is the banishment of that which is the undervalued." This occurs when purchasers "select that species which it values least, to pay to the other, where it is valued most."

Congress waited to act until absolutely necessary (possibly even later), which is often the case any time there is a committee. Even and perhaps especially during economic calamity, members of Congress are unlikely to provide prompt relief with rational and even necessary laws.

So, to combat Hamilton's "evils of a scanty circulation" of money, both metals were used in 1792 at fixed parity between them, which in turn created America's unstable monetary foundation which needed changing by 1834.

Sadly, the 1834 Congress failed to learn from the mistakes of the 1792 Congress, and again sought to affix silver to gold, only now at a "new" parity, effectively 1:16.

If they had only stopped to sufficiently ponder *"what would prevent another change from being needed yet again in the future…?"*

Lighter-weight gold coins struck under the 1834 statute stayed in circulation after the new law was enacted. America once again soon had an adequate supply of money of both silver and gold coin in circulation, as America's coins again (temporarily) bore a correct world-market relationship between one another.

The new 1834 gold coins quickly became the new "current" standard, while the principle established (of creating a proper exchange rate between two coins which were different from one another yet had the same name [and face value]) was firmly and properly set.

The act of 1834 also provided another incentive for honesty of the mint officers. It provided for an annual assay of samples from every separate mass of standard gold minted into coin throughout the year.

If the gold coins were found to be more inferior than one part in three hundred and eighty-four (1:384) in fineness and one part in five hundred (1:500) in weight, the mint officers responsible were disqualified from office.

In 1834, one thus sees Congress beginning to emphasize the value of a coin being determined by its declared face value, as Congress established the legal tolerance of one part in 500 by weight.

The establishment of a legal tolerance for weight aimed to make the legal tender value of the new gold coins more likely to be at their declared value (by being guaranteed to be within 1 part in 500 of their declared weight).

Section 2 of the 1834 act allowed the mint five days to test gold and silver bullion deposited for coinage before gold or silver coins were to be paid in coin to the depositor, less one-half of one percent for the prompt payment. No deduction was to be taken by the mint for any depositor willing to wait forty days (giving the mint this time to strike the depositor's coinage out of his metal).

While adept readers may be starting to understand some of these concepts herein discussed, it is likely that more than a few are becoming dizzy thinking through all the various ramifications.

The difficulty is due to the *changing standards*. Is one's reference point a 1792 (gold) dollar or 1834 (gold) dollar? Though they both carry the same name ("eagle") and both valued at the same rate ("ten dollars") *they are not the same thing,* for they have differing amounts (and even at differing fineness) of gold.

Monetary principles start becoming confusing in 1834 simply because Congress in 1792 listened to Secretary of the Treasury (under the Constitution) Alexander Hamilton rather than (Confederation) Superintendent of Finance Robert Morris and actually failed to choose a standard which affixed the value of things, thereby failing to create a fixed standard in our monetary unit.

From the resulting confusion, one should begin to understand that it is quite easy for people to be made the "dupes of sounds" when "substituting names for things" begins.

This author is attempting to clarify various monetary concepts and they seem difficult enough to grasp; imagine if someone had no intention of clarifying things, but even perhaps worked to gain competitive advantage from the situation (perhaps even purposefully confusing matters)…

The original intent of our money was that any coin's actual value (at set purity) was determined solely by its actual weight of properly-fine precious metals. Thus weighing of all coins was always presumed from the onset.

Just as one weighs the vegetables one is buying in the supermarket, one would weigh one's coins offered for payment in return, for determining proper payment.

The weighing of both the produce bought and the money given in trade for that produce shows that the use of gold and silver involves equal value trade, trading value with and for value.

Section C: 1837, January 18 Act

1837 brought about enactment of a lengthy new coinage act, the act of **January 18, 1837** (5 Stat. 136). What the mint and the treasury had learned over the past 45 years was taken into consideration by Congress in passage of a brand new coinage statute.

The act of 1837, in revisiting the coining of money, established this new act as the authoritative force on the matter, stating in the last section, **Section 26**, that:

> "all acts or parts of acts heretofore passed, relating to the mint and coins of the United States, which are inconsistent with the provisions of this act, be, and the same are hereby repealed".

Sections one through seven again dealt with officers of the mint and redefined their roles. Monetary bonds for several officers were raised to $5,000 and $10,000. Further requirements were placed upon the officers for procedures designed to ensure honest money.

One of the predominate new features was Section 8, which changed the precious metal-to-alloy ratio of both the silver and gold coins from their previous standards to now 900 parts precious metal to 100 parts alloy in every "one thousand parts by weight".

The fine-gold-to-standard-gold weight, as well as the fine-silver-to-standard-silver rate became 900/1,000^{ths} by weight (.900 fineness).

The alloy in the silver coins was specified in Section 8 to be "of copper"; the alloy for the gold coins was also specified in the same section as "copper and silver, provided that the silver do not exceed one-half the whole alloy".

Under the act of 1792, the standard weight of the silver dollar had been 416 grains, with the fine weight established therein at 371.25 grains (.89243 fineness). The new standard weight of the new 1837 silver dollar coin was established at 412.5 grains (and smaller denomination silver coins at their proportional weights and values).

With silver being set at .900 fineness, subtracting the 1/10th weight of the alloy from the 412.5 grains of standard weight established, one will see that the pure silver content remained completely unchanged at 371.25 grains (412.5 - 41.25 = 371.25).

Since the value of the silver dollar is determined solely by the weight of the fine silver (and none from the additional copper alloy), the value of the silver dollar remained wholly unchanged under the 1837 act which changed its standard weight and its standard purity.

Whereas the fine weight of the silver dollar remained unchanged but the standard weight was changed (to reach the new standard of .900 fine), in the gold coins it was the standard weight which remained unchanged, and the fine weight changed.

The 1837 gold eagle remained at the weight of 258 grains of standard gold. Multiplying this 258-grain standard weight times the new fineness of now .900 fine (from .899225 fineness in 1834 [232/258]), equates to 232.2 grains of fine gold in the new 1834 eagle.

The 1837 act increased the fine gold weight ever so slightly — by .2 grains — over the 232 grains of fine gold detailed under the 1834 act. The 1837 eagle now contained 232.2 grains of fine gold, rather than 232 as under the 1834 act.

Since it is only the fine weight which determines value, by rights it would appear that any gold coin with a new fine weight should have a different value than before, with an exchange rate provided (so all gold remains properly valued).

Unlike the 1834 act which had created a new coin with a different amount of fine gold with the same face value, where an exchange rate mechanism was specifically detailed so that heavier old gold coins under a differing standard and weight were appropriately valued, however, the 1837 act did not provide such a mechanism.

It would thus first appear that gold value was not properly similarly protected in the 1837 act as it had been in 1834.

In this case, however, it is the degree of the difference which is of primary relevance.

The increase of .2 grains per eagle equates to less than .86 cents worth of gold added (less than one penny), or less than $1/1{,}000^{th}$ increase.

While .86 cents worth of gold added to a coin may not seem like much (at least in the separate piece), added up over the many coins some people may own, perhaps could be of sufficient significance.

In 1834, when this same matter had there earlier surfaced, not only did the exchange rate in Section 3 address the issue directly, but the command for value dependent upon proportional weight in Section 1 addressed it also indirectly (making the matter legally irrelevant, even if it added some inconvenience by the necessity of weighing the coin to assure proper valuation).

Recall that **Section 1** of the **1834 act** had stated that:

> "the said gold coins shall be receivable in all payments, when of full weight, according to their respective values; and when of less than full weight, at less values, proportioned to their respective actual weights".

This had been the same principle as established by **Section 16** of the **1792 act**, which stated that:

> "all the gold and silver Coins which have been struck at, and issued from the said mint, shall be a lawful tender in all payments whatsoever, those of full weight according to their respective values herein before declared, and those of less than full weight at values proportional to their respective weights".

In 1837, however, the ultimate legal tender value of any coin (except pre-1834 gold coins) was now its nominal or declared value, such as a $10 gold eagle or one dollar of silver.

It had become readily apparent over the previous four decades of coining money that Americans strongly preferred the convenience of accepting coins by tale rather than actual weight.

The weighing of coins to determine value simply proved not only to be excessively time-consuming, but also seldom worth the extra effort, given the mint's growing competency of striking honest coin of proper weight and fineness.

Only perhaps in large transactions involving large sums of money did weighing of the coins prove to perhaps be worth the effort (Section 25 of the 1837 act provides distinct legal tolerances for weighing in bulk, making such efforts more efficient, even as they were now made legally unnecessary and even irrelevant [outside the mint, as another test to ensure adequacy of coins struck]).

Section 9 of the **1837 act**, with regards to the silver coins therein authorized, stated that such silver coins:

> "shall be legal tenders of payment, according to their nominal value, for any sums whatever".

Section 10 of the 1837 act, with similar regard to the gold coins therein authorized, stated:

> "And that for all sums whatever, the eagle shall be a legal tender of payment for ten dollars; the half eagle for five dollars; and the quarter eagle for two and a half dollars."

Taking into consideration silver coins earlier issued and gold coins struck since 1834, **Section 11** of the 1837 act stated:

> "That the silver coins heretofore issued at the mint of the United States, and the gold coins issued since the thirty-first day of July, one thousand eight hundred and thirty-four, shall continue to be legal tenders of payment for their nominal values, on the same terms as if they were of the coinage provided for by this act."

The 1837 Congress thus distanced themselves from the express, wise, but otherwise cumbersome and inconvenient principle of the ultimate value of any given coin being based only upon its proportional weight of fine silver or fine gold, instead declaring the value of any given silver or gold coin (other than obsolete, pre-1834 gold coin) be its nominal or face value.

As covered earlier, Section 26 of this 1837 act repealed "all acts or parts of acts…which are inconsistent with the provisions of this act".

Thus, the wording of the 1792 and 1834 acts establishing legal tender value determined actually upon proportional weight were repealed, and the legal tender value of coins were determined now solely by face value (of course, subject to tightly-regulated weight and fineness tolerances which were therein mandated).

In the short term, as allowed tolerances were tightened and each coin was better guaranteed to be of the full weight of the most-properly pure silver and most-properly pure gold than ever before, this severing from the principle of value dependent upon proportional weight did not then present any problems whatsoever.

Actually, the earlier proportional weight determining value wording of the early monetary acts allowed the early mint and the early government to even evade their ultimate responsibility for light-weight coins.

Indeed, each person or business paying into the treasury any amounts owed would only be credited value of their coin based upon actual weight. Thus, the mint suffered no loss in the matter of sloppily-struck coins, as they always went to the proper length of weighing deposited silver and gold. However, if private individuals or businesses did not weigh their coins upon receiving them, they may have actually suffered some inappropriate loss as they spent them elsewhere (where they were weighed).

Under the 1837 act, however, due to the express wording of Sections 9 - 11, the government would now accept all current U.S.-struck coins (except pre-1834 gold) at their nominal or face value (as would everyone else). Thus, the treasury and the mint now bore full responsibility for coins being of lighter weight (as they would yet have the responsibility to verify the weights of the coins before returning them to circulation, with lightweight coins being re-struck into coins of appropriate weight at government expense).

Before this new act, each person to whom each coin passed had to take the individual responsibility for proper valuation, now it rested ultimately with the mint.

Over the medium term, while coins were yet of honest weight and fineness, accepting the coins at their nominal or face value thus sped up commerce even greater as now even the most meticulous of persons no longer had to accept the responsibility of ensuring proper valuation in their transactions. Even the most fastidious of persons could now rest assured that they would always obtain proper valuation of the coins as they rightfully should as stated by the coin's face value.

Over the long term, however, the safety net which had always assured that legal tender money would always and only be gold and silver coin was effectively pulled.

As long as any given coin's ultimate legal tender value consisted only of its actual proportional weight of fine silver or fine gold, fine silver and fine gold were always thusly guaranteed to be appropriately present in the coin in proper proportion to its given legal value.

In acrobatics, a safety net helps protect the performer in his acrobatic exercises. After years of practice, however, the most daring of acrobats occasionally choose to remove the safety net to "wow" their audiences to an even greater degree with their acrobatic stunts.

When a given acrobat chooses to eliminate his safety net, little harm is threatened to others, unless these other persons are directly beneath him or within his trajectory. In that case, some of these spectators may prefer the acrobat to keep up the safety net to protect them, if not him. Thus, even though the chance of individual harm from miscalculation may be minimal to any given individual spectator, some number of spectators would yet prefer a safety net be used.

Undoubtedly, the number of spectators desiring a safety net beneath a daring acrobat would increase as their chance for harm increased. Thus, if instead of a 170-pound acrobat flying overhead, a 12,000 pound elephant flew, undoubtedly the number of spectators preferring a sufficient overhead safety net would increase, if they did not remove themselves entirely from the scene of danger.

Unfortunately, the removal of the safety net of the early coinage acts which originally provided the express wording of valuing any given coin only upon its proportional weight of sufficiently-fine silver or gold would provide an expedient escape route for later severing gold and silver from coinage which could not occur while this protective legal principle had remained in place. Sadly, the loss of this safety net poses no direct harm to the acrobat the mint, but certainly to the spectators who now must juggle their finances with depreciating money.

It is difficult to determine today if this severing of the safety net in 1837 was perhaps to later allow silver and gold to escape in part of in full from our coinage, but there is no doubt whatsoever that later Congresses would certainly exploit this change in fundamental principles.

From looking at the rest of the 1837 act, there is little evidence that the 1837 Congress did intend to provide the key to unlock the door to sever gold and silver from our money.

As long as Congress took seriously their role "To coin Money", and coined that money very precisely and accurately at a sufficient weight and proper purity of gold and silver, there was little reason the coin's legal tender value shouldn't be its stated value.

The march of tyranny against liberty is often incremental and difficult to recognize during the moment, and perhaps imperceptible even decades later. A key principle which protected liberty and property was explicitly removed from its rightful place by the 1837 monetary act, while the possibility of reference back to this earlier fundamental support structure for this principle was also effectively repealed in the final section of the 1837 act which nullified all parts of earlier laws inconsistent with the current law.

Valuation by tale was firmly established with the 1837 act as valuation by proportional weight was repealed.

Importantly at the time, however, was that the coins struck under the 1837 act were thus far the most legally-exacting coins of the most properly-pure gold and silver coins ever struck by the mint of the United States.

Indeed, at no earlier time in American history could any given coin's face value thusly be better-guaranteed to be its legal tender value.

Sadly, the very pinnacle of success sometimes seems to breed the very seeds for a later tragic fall.

In other words, perhaps Congress were then even getting a little boastful. As Proverbs 19: 18 states, however: "Pride goeth before destruction, and an haughty spirit before a fall".

The American monetary experience over the subsequent 175 years (especially the most recent 80) sadly foretells America's future destined for destruction and a fall (unless we citizens regain the helm and steer clear of the impending danger [thus the reason for this book, to help provide the navigational insight]).

Thankfully, Section 14 of the act of February 12, 1873 re-established that gold coins "shall be a legal tender in all payments at their nominal value, when not below the standard weight and limit of tolerance provided in this act for the single piece, and when reduced in weight below said standard and tolerance, shall be a legal tender at valuation in proportion to their actual weight".

Though other factors of the 1873 act were far from beneficial, nothing was more important for our money than re-establishing the appropriate safety net (though some damage had already be done in the interim).

Section 25 of the 1837 act mandated that deviations for weight in gold coins were required to be within one-quarter of a grain of the standard weight of any-sized gold coin (and in the silver dollar and half-dollar coins, the deviation could not exceed one and a half grains: and in the quarter dollar, one grain; and in the dime and half-dime, half a grain).

Section 22 of the 1837 act provided that the gold ingots (from which the coins would be struck) which differed from the legal standard of fineness by more than two parts-in-one thousand (2/1,000th or .002) could not be used for striking gold coins (silver ingots could not vary by 3/1,000th (.003)).

By these two sections of the 1837 act, the legal tolerances for the gold and silver coin were tightened up.

Section 26 of the 1837 act further mandated that all light-weight coins be culled at the mint by the Chief Coiner and re-struck into appropriate weight coins.

The result of this tightening of tolerances was that the legal value of any new coin would always be closer to its face value than ever before (especially as abraded coins accepted at the treasury were sent to the mint for re-striking into new coins of legal weight).

Since the only gold coins in common circulation were the new coins struck only within the last three years since enactment of the 1834 act, the coins of greatest value had all been recently struck (presumably after the mint had learned a thing or two about consistency and proper process) which otherwise minimized potentially harmful effects.

Under the previous monetary acts, gold and silver coin paid into the treasury or deposited at the mint (or elsewhere) would be valued only at their proportional weight. Under the 1837 act, however, coin would now be there accepted *at face value*.

There was no exchange rate mechanism in the 1837 act between the 1834 eagle which contained 232 grains of fine gold in a coin weighing 258 grains and the 1837 eagle which now contained 232.2 grains of fine gold, like there had been between the 1834 gold coins and the 1792 gold coins (the eagle then being of 247.5 grains of fine gold). It is therefore important to examine this matter to see if some people were perhaps unjustly enriched or unjustly impoverished.

Realizing that the increase was but quite small, however, the first thing one should do is to examine the allowable tolerances in each of the acts, being that weight and fineness of the gold coin that were hand-struck would never be exact (and thus the need for clearly-defined legal tolerances).

Section 25 of the 1837 act mandated that deviations for weight in gold coins were required to be within one-quarter of a grain of the standard weight of any sized gold coin.

Section 22 of the 1837 act provided that the gold ingots which differed from the legal standard of fineness by more than two parts-in-one thousand (2/1,000th or .002) could not be used for striking gold coins.

In other words, of a gold coin of .900 fineness, the allowed fineness of gold could be plus or minus .002, or from .902 fine down to .898 fine.

Obviously, with the 232 grains specified in 1834, 232.2 grains specified in 1837 is within a 1/4-grain of the weight allowed (232.25 grains).

It is important to also take into consideration purity factors, however, which complicate matters.

Close examination of these matters will prove that the 1837 gold coins were well within all the legal tolerances set in both the prior 1834 act and the new 1837 act.

The legal tolerances are those deviations from the target numbers specified by the acts which a coin could vary in the weight and fineness and still be within its legal valuation parameters (while realizing that strict reading of the early legal acts valued each coin only at its proportional weight [of fine silver or fine gold]).

That the new 232.2 grains of fine gold per 1837 eagle and its tolerances were within the legal tolerances allowed under the 1834 act is proved by the following proof, where one must determine the maximum, normal, and minimum weights at the maximum, normal and minimum purities in each of the two acts (readers not overly interested in verifying this proof can skip to the section summaries below, labeled "Recap"):

Comparison of the Legal Deviations allowed in gold under the 1834 & 1837 Acts

1834 Act

Standard weight of 1834 eagle:	258 grains
Fine weight of 1834 eagle:	232 grains
Legal tolerances established by weight (in the standard weight):	1 in 500
Legal tolerance established for fineness:	1 in 384
Standard fineness (fine gold/standard gold):	.899225

To determine the legal tolerance by weight in the standard weight, divide the standard weight of 258 grains by 500 parts to determine the allowed variation in weight per part. 258 divided by 500 parts equals .51600 grains variation allowed per part by weight.

To determine the legal tolerance by fineness, divide the standard weight of an eagle of 258 grains by 384 parts to find .671875 grains variation allowed per part.

Maximum and minimum weights at normal purity:

Maximum legal standard weight	258 + .51600	=	258.51600
Maximum legal fine weight at normal purity	258.516 x .899225	=	232.46405
Normal legal fine weight at normal purity	258 X .899225	=	232
Minimum legal standard weight	258 - .51600	=	257.484

Minimum legal fine weight at normal purity	257.484 x .899224	=	231.53605

Maximum legal weight with varied purity:

Maximum legal fine weight	258.516 X .899225	=	232.46405
Maximum legal fine weight at max. purity	232.46405+ .671875	=	233.135925
Maximum legal fine weight at normal purity	258.516 X .899225	=	232.46405
Maximum legal fine weight	258.516 X .899225	=	232.46405
Maximum legal fine weight at min. purity	232.464051- .671875	=	231.792175

Normal legal weight with varied purity:

Normal legal fine weight	258 X .899225	=	232
Normal legal fine weight at maximum purity	232 + .671875	=	232.671875
Normal legal fine weight at normal purity	258 X .899225	=	232
Normal legal fine weight	258 X .899225	=	232
Normal legal fine weight at minimum purity	232 - .671875	=	231.328125

Minimum legal weight with varied purity:

Minimum legal fine weight	257.484 X .899225	=	231.53605
Minimum legal fine weight at max. purity	231.53605 + .671875	=	232.207925
Minimum legal fine weight at normal purity	257.484 X .899225	=	231.53605
Minimum legal fine weight	257.484 X .899225	=	231.53605
Minimum legal fine weight at min. purity	231.53605- .671875	=	230.864175

Recap of 1834 Act:

Maximum grains of fine gold per 1834 eagle = **233.135925**
(Maximum weight at maximum fineness)

Target weight in grains of fine gold = 232

Minimum grains of fine gold per 1834 eagle = **230.864175**
(Minimum weight at minimum fineness)

1837 Act

Standard weight of 1837 eagle:	258 grains
Fine weight of 1837 eagle:	232.2 grains
Legal tolerances by weight (in the standard weight):	± .25 grains
Legal tolerance for fineness:	2 in 1,000
Standard fineness (fine gold/standard gold):	.900

To determine the legal tolerance by weight in the standard weight, add or subtract .25 grains from the standard weight.

To determine the legal tolerance by fineness, add or subtract 2/1,000 to the standard fineness of .900, for .902 fineness to .898 fineness allowed.

Maximum and minimum weights (at normal purity):			
Maximum legal standard weight	258 + .25	=	258.25
Normal standard weight			258
Minimum standard weight	258 - .25	=	257.75
Maximum legal weight (with varied purity):			
Maximum legal fine weight at max. purity	258.25 X .902	=	232.9415
Maximum legal standard weight at normal purity			258.25
Maximum legal fine weight at min. purity	258.25 X .898	=	231.91
Normal legal weight (with varied purity):			
Normal legal fine weight at maximum purity	258 X .902	=	232.716
Normal legal fine weight at normal purity			232.2
Normal legal fine weight at minimum purity	258 X .898	=	231.684
Minimum legal weight (with varied purity):			
Minimum legal fine weight at max. purity	257.75 X .902	=	232.4905
Minimum legal standard weight at normal purity			257.75
Minimum legal weight at minimum purity	257.75 X .898	=	231.4595

Recap of 1837 act:

Maximum grains of fine gold per 1837 eagle = **232.9415**
(Maximum fine weight at maximum fineness)

Target weight in grains of fine gold = 232

Minimum grains of fine gold per 1837 eagle =
231.4595
(Minimum fine weight at minimum fineness)

Comparison Recap between 1834 and 1837 acts for minimum and maximum allowed weights.

	1834 Act	**1837 Act**
Maximum grains of fine gold per eagle	233.135925	232.9415
Target # grains of fine gold per eagle	232	232.2
Minimum grains of fine gold per eagle	230.864175	231.4595

The 1837 act, while leaving unchanged the standard weight of gold at 258 grains per eagle (established under the act of 1834), changed the purity of gold in the eagle to .900 fine from .899225 (as deduced by the fraction of fine gold in standard gold [232/258] under the act of

1834). The increase of purity thus increased the number of grains of fine gold per eagle from 232 grains to 232.2 grains. Unlike the act of 1834, however, there was no exchange mechanism to these two coins which were foreign to each other.

An exchange rate between these two coins which had differing amounts of fine gold but the same face value was unnecessary because coins struck within the tolerances for weight and fineness under the 1837 act where yet within the legal tolerances for weight and fineness struck under the 1834 act.

What the 1837 act did, besides raising slightly the target weight of fine gold in the 1837 eagle, was to hold the new coins now to a slightly higher standard (by tightening the allowed tolerances).

Under the 1834 act, the minimum allowed weight of an eagle was 230.864175 grains of fine gold, as figured and shown above. In the 1837 act, the minimum was 231.4595 grains, showing that the minimum number of grains of fine gold were higher under the 1837 act (closer to 232.2 on the bottom side).

Under the 1834 act, the maximum weight of the eagle was 233.135925 grains of fine gold. In the 1837 act, the maximum weight was 232.9415 grains of fine gold, showing that the maximum number of grains of fine gold was lower under the 1837 act (closer to 232.2 on the upper side) as compared with the 1834 act.

The range on each end was thus tightened toward the ideal weight at the center, for greater accuracy (while also targeting a slightly higher weight, from 232 to now 232.2 grains of fine gold).

As the target destination of 232.2 grains of fine gold and the minimum and maximum weight and fineness were within the legal tolerances allowed by both the 1834 and 1837 acts, no exchange mechanism was thus needed. No one thus had to refigure their 1834 coins' value in the new coin struck in 1837.

While the fineness of the gold coin from 1792 through 1833 had been .916667, and the fineness of the gold coin from 1834 through 1836 was .899225, the fineness of gold in 1837 and thereafter was established at .900 fine. Whereas the 1834 eagle needed an exchange rate from the 1792 eagle, none was needed in transition from the 1834 eagle to that of the 1837 eagle.

The fineness of the silver coin from 1792 through 1836 was .892428, it was also established at .900 Fine in 1837. The silver dollar remained at 371.25 grains of fine silver and was thus unchanged in value since its origin in 1792.

If many readers had difficulty following the mathematical proofs of the 1834 and 1837 coinage acts as herein presented, it is important to again emphasize that it is not necessarily important to follow them.

What is of crucial importance to understand, however, is that with any true standard, including the establishment of the standard of value, that the standard itself may be mathematically-proven in an objective, demonstrable fashion. It is less important that everyone may be competent to prove the standard mathematically than that someone of competence may.

The mathematical proofs earlier provided amply showed that the standards (within each precious metal itself) were objectively-based and not subject to arbitrary decisions.

Though the actual purchasing power of any given coin is relative and discretionary (for it rests upon subjective discretion of countless individuals offering to purchase various goods and services being offered for sale), the stated numerical values (five cents, twenty-five cents, one dollar of 100 cents, etc.) of a given metal are otherwise objectively and proportionally based upon relative weights of the properly-fine precious metal.

The error of the 1792, 1834 and 1837 Congresses was in attempting to arbitrarily fix a standard between two differing metals (of choosing gold to silver at 1:15, or 1:16), merely by objectively examining evidence of what was then the current ratio around the world.

Thus, even though the 1:15 ratio was theoretically objectively-determined in 1792 and 1:16 was similarly determined in 1834 by determining the mean of ratios of equivalency between these two metals in other countries, it was yet obvious that there was no fixed equality between gold and silver *over time* that would remain fixed (thus it is really only a subjective determination).

The allowances made in 1792 and 1834 (and 1837) allowing for the introduction of subjectivity into our standard of value over time destabilized that standard. A standard which must be periodically changed is no standard at all. If one-twelfth of a foot is not always one inch (say, except on the third Tuesdays of months ending in "y"), then these measures of distance are of little long-term good (at least for critical measures).

Congress failed to establish a fixed standard which was required of their standard of value. They seemed to agree with Hamilton that having more money which the two precious metals would otherwise provide would equate with more wealth (finding instead unstable money over time inevitably destroys wealth, creates it less consistently, or at least causes that wealth to change hands to greater degree than desired by the owners of that wealth [as they sell it off in recessions to pay off debts taken too readily in times of plenty]).

Section D: 1849, March 3 Act

The act of **March 3, 1849** (9 Stat. 397) authorized the first striking of the gold double eagle ($20) and the gold dollar ($1) coins.

America now had a dollar coin of gold as well as of silver. This fact removed the previous claim of silver from being the sole precious metal coined at the value of the monetary unit (thereby giving gold an equal claim to silver as the money of account).

The large, newly-found California gold rushed California to statehood as large numbers of people emigrated westward in search of vast riches, whether of gold, fertile soil or sunshine.

Of special significance to the coinage of the immense California gold production was that gold soon became lowered in the world price in relation to silver, whereas in the early 1830's it had been the other way around.

The 1:16 ratio of gold-to-silver effectively established in 1834 now was too high of ratio due to all of this new-found gold. Those early gains of gold-over-silver reversed, with silver now essentially reverting back to the old parity of 1:15.

The increase of gold production lead to large amounts of silver coin being melted and shipped overseas, where it was held to have more value. Silver coins soon all but disappeared from circulation, in all too-disturbing of a pattern. Storekeepers were at a loss to make change while customers were at a loss to purchase small items.

Sadly, heads buried in the sand, Congress missed their golden opportunity to sever gold from the dollar (not that they had any desire or even understanding as to the necessity of severing the fixed parity to either a silver standard or gold [but not both]).

Given their experiences in 1834 with large production increases of silver leading to the loss of gold from both circulation and stores at the treasury, one would have thought that even if Congress in the early 1850's didn't have a pulse on the diminishing silver situation caused by increased gold production, that someone at the treasury would have had a clue of the danger signs to monitor well before the absence of silver in circulation became drastic and could have prompted Congress to action sooner.

Walter Breen writes: "Eventually Mint Director George N. Eckert… managed to persuade an uncomprehending Congress" that reducing the official silver weights down to where "melting would no longer be profitable" would re-establish circulation of the missing silver Coins.

Walter Breen's Complete Encyclopedia of U.S. and Colonial Coins, Doubleday, New York, 1988, Pg. 290

Breen also notes that "an equally uncomprehending Pres. Millard Fillmore signed into law the Act of Feb. 21, 1853". *Ibid.*

Though conspiracy-theorists tend to attribute a super-competency toward government servants, this author tends to find history too often proves quite the opposite and suggests that even a general competency must often-times be questioned, as Breen's statement here in this instance would also suggest.

If Congress would have acted sooner, before all the small silver coins were melted and shipped overseas (so there was yet ample silver in circulation, but just starting to disappear), Congress could have severed gold coins from a dollar equivalency, thereby eliminating the fixed parity of gold to silver which was a primary cause of the United States' coinage problems all along (paper notes issued by State and national banks [and later, by Congress] were also no small cause of monetary instability, of course [see Chapter 10 and thereafter]).

The mint would have simply coined full-bodied, silver coins valued in their proportional rates dependent upon their weights as a dollar, half-dollar, quarter-dollar, dime and half dime (and, after 1851, the 3-cent "trime").

The mint would then have struck the double-eagle, eagle, half- and quarter-eagles, as well as the newer tenth-eagle, all without any dollar equivalency.

Gold had just fallen in value world-wide, so silver was then the more-stable monetary metal. The value of silver was yet high enough to account for a good deal of trade, while the smallest of its coin yet bought many single items of relatively low worth.

Gold in this situation may have suffered a slight loss of use by not being directly valued in the money of account, due to the added effort needed to use a fluctuating market exchange rate to calculate its present value in the money of account. However, with its higher value, gold would only be typically used in higher-value transactions anyway, where one could best afford a slight inconvenience the added effort that use of exchange rate calculations would require.

A single money of account of only silver would mean silver could not be used for the very smallest of single transactions of less than the smallest silver coin (of three cents, after 1851). Yet that fact still should not necessarily discount it from being used as the single money of account.

One should realize that the copper cent (or half-cent) could never approach the money of account in the unit of a "mill", yet trade occurred nevertheless without a coin anywhere near that value. While the extremely small measure of a mill would tend to negate drawing any parallel with larger measures found in trade, large increases in productive capacity over time would otherwise tend toward making such comparisons otherwise valid (as things became more affordable, typically driving prices ever lower [assuming relative monetary stability]).

As noted by Robert Morris in his 1782 treasury report, the official money of account needn't even necessarily coincide in the actual coinage primarily found in circulation. It should be noted that trade in dollars occurred even while the monies of account were denominated in pounds, shillings and pence, despite the added difficulty of exchange rates; there is no reason to assume any difference with gold needing an exchange rate when used in place of silver.

This author is quite confident eagles coined without tie to the money of account could have been readily exchanged into dollars as the official money of account without great effort.

If one had to choose a little difficulty in trading with honest money which held its value, versus relative ease in trading with a depreciating paper currency, one would be infinitely better off with a little frustration that in time would likely become second nature.

Besides, people concentrating on theoretical difficulties of proposed methods are ignoring American ingenuity for creative and simple answers to perplexing problems. This author is confident our predecessors would have come up with adequate answers which would have eliminated any problem which presented itself over using a single metal in the money of account.

It is quite possible that the smallest legal tender coin being three cents would perhaps tend to increase the lot-size of very inexpensive items and other items would tend to get rounded to the nearest coin value (of three cents, rather than down to the [half-] cent with copper coins).

Anyone buying in bulk knows that this is the most-affordable way to buy things, so producers and sellers gain efficiencies by economy of scale. Certainly an abundance of relatively inexpensive goods is not an overly bad thing.

Looking today at the purchase of office staples is perhaps a good example. They are so affordable that many purchasers often buy what amounts to be about a multi-year supply of them at any given time. That inexpensive things would be bought in relative abundance means that people would either have ample supplies, or they would sell, trade or give away the perceived excess to others.

Ample supplies, for those with sufficient storage space and the inclination, would mean those persons would obtain the most value for their money in their bulk purchases, while enjoying a good deal of independence from soon needing to again purchase given items.

Again, using silver as the only money of account with a legal tender would not necessarily prevent the use of non-tender copper coins which would neither have any direct valuation in the money of account.

Whether the lot-size of inexpensive items increased to avoid use of non-tender copper coins which had no direct tie to the money of account or whether the market clarified over time that such copper coins were convenient and therefore necessary, this uncertainty would be found only at the lowest value level of trade without much significance.

If one is to encounter some difficulty in money, having a single money of account with some minor difficulty at the lowest spectrum of minor transactions and some calculation difficulty at the highest level of major transactions where the increased value makes it easy to justify a little added effort are the places where the difficulties should be placed, not at the middle values where a vast number of transactions occur.

It is likely that other convenient options would have presented themselves had Congress then sought a single money of account in only one precious metal.

Common convention through use of a three-, five-, ten-, twenty-five, and fifty-cent coins, together with a proportional dollar coin, would inevitably have established silver as a quite workable sole metallic money of account in practice as well as at law in the early 1850's.

With a single-metal money of account, the two or three metals (gold and silver with perhaps copper) coined would simply remain consistently proportional to all other coins in any given metal, without fixed parity between the different metals themselves (or value in the money of account in the metals not a tender).

Congress could post as often as necessary the exchange rates between gold and silver (as well as copper and silver) that Congress would accept for receivables due the government.

Even if this proposal ultimately proved inferior to something which over time could develop, at least it would retain more fundamental and just principles than that which was ultimately followed by Congress (of lightening gold coin, then silver, then removing gold, and then removing silver from all circulating money [so that no precious metals remained in our money, which became mere paper]).

That silver coins were actually struck from three cents to one dollar is quite a workable range (equivalent today, of single coins valued from about sixty cents up to the twenty or thirty dollar range (dependent upon the price of silver in our fluctuating currency today). That a single coin could yet today buy a decent meal or even sometimes two in a nice restaurant, while the smallest coin could buy a candy bar covers a vast amount of the single transactions common in trade.

Instead, Congress enacted the act of 1853, which, by cutting the main artery supporting precious-metal money (proportional weight equaling proportional value), helped plant the seeds of destruction for a later era of detrimental reaping, which then removed *both silver and gold* from our money.

Section E: 1853, February 21 Act

The act of **February 21, 1853** (10 Stat. 160) nominally sought to correct the relative reversal in the value of the precious metals stemming from increased production of gold from the California gold rush.

Before the 1834 act changed the 1792 gold-to-silver ratio in the coins struck at the mint, some 99% of the gold coins previously minted over the previous forty years had been callously melted and sent overseas (or, sent overseas and melted). Four decades worth of exacting, painstaking effort went up in the smoke which was created from the fires which were stoked in the furnaces which melted America's gold coins.

By 1853, silver coins previously struck for now sixty years virtually disappeared from circulation. Whereas the original 1:15 gold-to-silver standard was in place for over four decades, the 1:16 parity was in place less than two. Obviously, a disturbing pattern was developing in the bi-metallic monetary standard.

Starting afresh with new gold or silver coins, whenever the gold-to-silver ratio changed, made little sense. It was neither economical nor prudent that money so carefully struck should be melted back into bullion on such a vast scale (when it was yet within legal tolerances, anyway).

Alexander Hamilton had thoroughly discounted the impact of this intractable, steadily-advancing force which so soon again presented itself.

Section 1 of the 1853 act stated that from and after June 1, 1853, that the new standard weight of the silver half-dollar would be 192 grains; it also made the quarter, dime, and half-dime coins in like proportions.

Subtracting the 1/10th-weight of the alloy (established by the 1837 act and left unchanged in the 1853 act), the new half dollar would now only therefore contain 172.8 grains, whereas the old half-dollar contained 185.625 grains (the old quarter of 92.8125 grains fine was now only of 86.4 grains).

In like proportion, the old dime had 37.125 grains fine; the new one only 34.56 (and half-dime in half-proportion).

Lightening the weight of the gold coins in 1834 became necessary to support the bi-metallic system because silver production in the early 1830's increased substantially, and thus lowered the value of silver relative to gold.

Now in the early 1850's, silver was improperly valued because of the California gold rush. The content of the silver in the coins became more worth more as bullion than the face value of the silver coins, so the coins were melted and the metal was used for other purposes (much of it overseas).

It is the false fixed ratio established at law for gold and silver, compared to the actual trade parity, which creates the shortages in areas which fail to maintain the appropriate market parity. Without a fixed parity, however, there is no reason for the undervalued metal to disappear from circulation. With demand increasing, price would simply rise to maintain adequate supply.

Dissimilar to the earlier change in gold coins where *all* the gold coins were lightened, however, damagingly absent in the 1853 act was *any* mention of the *dollar coin* of silver. The only silver coins lightened by the 1853 act were the half-dollar, quarter-dollar, dime and half-dime.

Thus, the silver dollar remained unchanged at 412.5 grains of standard silver, or 371.25 grains of fine silver, valued yet at one dollar.

The 1853 Congress diminished the weight of the 50-, 25-, 10-, and 5-cent silver coins, but destructively left the dollar silver coin of original weight and value.

Tragically, the dime declared at law to be worth one-tenth of a dollar now no longer contained its proportional weight of 37.125 grains of fine silver. Ten silver dimes equating with one dollar by the money of account only contained 345.6 grains of fine silver, whereas the dollar had 371.25.

Neither were any two half-dollars, four quarter-dollars, nor twenty half-dimes equivalent with the silver dollar of 371.25 grains (but again only of 345.6 grains, or 93.0909 cents).

Just as conspicuously absent in the 1853 act was any mention of any exchange rate to value the old, heavier-weight coins in terms of the new rate, so that owners of the old coins (if any remained) had their silver properly valued (because both light-weight and original-weight coins both destructively had the same value).

In 1853, Congress ventured into unchartered territory, severing their constitutional rudder as they severed the strict principle of legal tender value being ultimately determined by proportional weight.

In 1837, although the legal tender value of any given coin was declared to be its nominal value (which was struck on its face), that nominal value had been nevertheless strictly determined by its proportional weight (of properly-fine metal).

Of course, had all the silver coins, including the dollar, been made lighter in weight in 1853, then silver would have been properly acknowledged as being of greater value than before (which, by rights, it was then owed), just as had been done with gold in 1834.

In 1834, when gold had risen in value, the amount of gold in the new coins was lessened because gold was more valuable than before, in relation to silver.

Lowering the amount of precious metal in a coin whose value remained acknowledged the metal inside as more valuable, not less.

However, leaving the silver dollar at 371.25 grains of silver (and leaving its value at one dollar) meant that, compared with this dollar coin, the new smaller-denomination silver coins had much less proportional weight than their proportionate value would mandate, becoming mere token-like coins.

The failure to lighten also the dollar coin of its proportional amount of silver unfortunately made the fractional coins of silver appear debased — which, from the point of view of the silver dollar, they of course were.

The 1853 Congress approved what Hamilton had earlier stated had been “disapproved by the wisest men of the nations in which has been practised, and condemned by the rest of the world”, that of declaring “that a less weight of gold or silver shall pass for the same sum, which before represented a greater weight”.

What Hamilton was referring to, however, was far less damaging than that practiced by Congress in 1853. Hamilton was discussing early governments declaring “that a less weight of gold or silver shall pass for the same sum, which before represented a greater weight”. He was referring to early governments establishing a new, lighter-weight standard, but nevertheless establishing a new standard which would eventually even out and would then no longer be damaging (once the initial damage from the transition from the old standard to new standard was completed).

In 1853, however, Congress — either purposely or incompetently (in leaving alone the silver dollar coin) — effectively destroyed silver as *any* standard (for lack of proportional weight, proportional value coins).

An inconsistent “standard” compels people to look elsewhere for the consistency they need of their standards. With silver, people now would not know to look at value or weight (especially as legal tender value was determined by declared value).

Coins of disproportionate weight with proportional value are as harmful as coins of proportional weight with disproportionate value. The inherent contradiction found in either circumstance destroys the very consistency which is required for a standard of value.

Under the first teratology (proportionate value with disproportionate weight) were the 1853 silver coins, under the second (disproportionate value with proportionate weight) are the modern American gold bullion eagle coins in historic 22-carat, 11/12$^{\text{ths}}$-fineness (.916667).

For example, the one-ounce American gold eagles struck at the United States Mint today (1.090909 ounces of .916667 fineness, for one ounce of fine gold) have a stated value of $50; the almost ½-ounce (only .5444 [instead of .5454] ounces of .916667 fine gold) coin have a stated value of $25; while the ¼-ounce coin have a stated value of only $10 (instead of $12.50); while the 1/10$^{\text{th}}$-ounce coin have a stated value of $5.

That the modern gold bullion eagles do not maintain proportional value as what proportionate weight would require (given the one-ounce coin at $50 as the standard), would appear to be a deliberate attempt (assuming greater understanding of monetary principles today) of keeping these gold coins from competing with paper dollars.

Had the bullion coins simply been coined in a troy ounce and its fractional weights, with proportionate values attached to them, they would have likely posed a far greater competitive threat to the paper dollar as people searched for a standard of value in their medium of exchange.

A standard with an inherent contradiction is no standard at all.

This author did not similarly chastise the 1834 Congress for their act of lightening the weight of the gold coins because they lowered the weight of all gold coins and they established an exchange rate between the old and new.

By failing to lighten all the silver coins and then establish an exchange rate between old and new silver coins, the 1853 Congress made a fundamental break from solid monetary principles by then well-established, even with a bi-metallic standard.

Creditors or merchants receiving payment in silver after 1853 would obviously prefer a dollar coin over any two fifty-cent pieces, any four quarters, any ten dimes, or any twenty half-dimes, for the dollar's extra 25.65 grains of fine silver over its fractional coins.

The 1853 act, dealing a mortal blow to silver, thus strongly favored circulation of gold coin, with its uniform system of proportional weights and values.

Much better would have been to completely sever the fixed parity of either metal in favor of one or the other (though silver then would have made the most sense by far), while properly upholding fundamental monetary principles of value dependent upon proportional weight.

With a comparison of the 1834 and 1853 monetary acts, one notices that with a fixed parity standard, when the fixed parity first skewed one way in the early 1830's, gold coins were lightened. Later, in 1853, after the fixed parity skewed back the other way, (small) silver coins were later lightened. Thus, no matter which direction the fixed parity swung, the amount of precious metal in one of the coins was lightened.

The irony of a bi-metallic monetary standard is that it trends toward a no(n)-metallic monetary standard, which again is no standard at all.

This, of course, establishes dangerous precedents. Should the bi-metallic monetary standard continue, in time there would possibly be precious little metal left in any given coin (unless a different approach was taken).

Thus, it is perhaps not surprising that the 1853 Congress approved a somewhat different tactic than approved in 1834. However, the end result (of both gold and silver being removed from money) ultimately proved more damaging (because their method [disproportionate weights with proportionate values] was even more damaging than gradual lightening but maintaining proportionality within a given metal).

Looking further into the 1853 act provides additional clues as to the surreptitious nature of the monster the 32nd Congress (and President Fillmore) created (perhaps unwittingly); of the "original sin", monetarily-speaking.

The first thing to note is Section 2, which provides that the silver coins issued "in conformity with the above section", shall be legal tenders "in payment of debts for all sums not exceeding five dollars".

Since the silver dollar was not mentioned in the 1853 act (nor was it in conformity with that act), it remained a legal tender for "any sums whatever" as established in Section 9 of the 1837 act.

The limiting of the new light-weight fractional silver coins to tenders in the payment of five dollars or less, certainly limits the damage, of course, but nevertheless allowed damage.

Minor damage widely distributed nevertheless has significant impact; and if not actually on pocketbooks, then certainly on essential monetary principles.

Section 3 of the 1853 act clarifies that the allowed damage was clearly understood (at least by the person writing the section), reading, in part:

> "the Treasurer of the Mint shall…charge himself with the gain arising from the coinage of such bullion into coins of a nominal value exceeding the intrinsic value thereof, and shall be credited with the difference…The balances to his credit, or the profit of said coinage, shall be, from time to time…transferred to the account of the Treasury of the United States."

Congress directed the Treasurer of the Mint to take the "gain arising from the coinage" from the "nominal value exceeding the intrinsic value", to be "credited with the difference" and then to take his "credit" or "profit" and transfer it into the account of the Treasury.

Ugh! Never before were such dangerous words found in any American coinage act.

Whereas sixty years before, the Second Congress prescribed the death penalty for any mint employee found guilty of debasing American legal tender coinage, now the 32nd Congress mandates debasement for the treasury's own profit, from being "credited with the difference" of the "nominal value exceeding the intrinsic value".

Congress, without surprise, were unwilling to share this seigniorage with others. Section 5 thus mandates:

> "That no deposits for coinage into the half dollar, quarter dollar, dime, and half dime, shall hereafter be received, other than those made by the Treasurer of the Mint, as herein authorized, and upon account of the United States."

The door which Congress unlocked in 1837 (basing the value of a coin strictly on its face value, rather than proportional weight) was opened wide by the Congress in 1853 (the house which held the wall which supported the door was leveled decades later).

If Congress may declare the value of a coin with only 93% value as having 100% value, they may also declare a coin of no value (or a few pennies' worth of base metal) as having 100% value. The difference is but one of degree, rather than of principle.

Congress was vainly and arrogantly declaring in 1853 that value is what *they* declared, not the inherent value of the material out of which a given coin was struck, which had heretofore been the case.

Walter Breen wrote of an "uncomprehending Congress" and "equally uncomprehending Pres. Millard Fillmore", suggesting a general incompetency. This author makes no judgment call, but would perhaps lean toward the same conclusion. Their incompetency nevertheless does not rule out arrogance (ironically, sometimes those most incompetent are most arrogant).

However, whoever at least wrote Sections 2, 3 and 5 of the 1853 act knew precisely what was going on, even if those authorizing those sections didn't (meaning one gets to choose between incompetents and scoundrels).

Under the Article I, Section 8, Clause 5 power "To coin Money", the 1853 Congress would be sufficiently empowered to do as they did with regard to the four smaller silver coins.

However, Congress cannot exercise this power in a vacuum; they *must* exercise all their individual powers within the remainder of all applicable clauses of the Constitution, including

here the powers “To… regulate the Value thereof ” and “To establish a Standard of Weights and Measures”.

Under the power “To…regulate the Value thereof ”, Congress certainly did not in 1853 make value “regular” or “consistent” between all the coins of silver as their content thereof would dictate.

Under the latter principle detailed above, the 1853 action of Congress must also assuredly fail, for they sabotaged the standard measure of value by failing to remove the same proportion of weight from the silver dollar (or raise its value).

The Constitution, after all, empowers Congress only to “fix the Standard of Weights and Measures”, not “destroy the Standard of Weights and Measures” or “create non-standards”.

The 1837 act equated any coin’s legal tender value with its nominal value and repealed earlier parts of coinage acts inconsistent with it (thereby repealing a coin’s legal tender value being based upon its proportionate weight).

Repealing the words detailing a principle, however, is not the same as repealing the principle itself. Just because the wording which clearly spelled out the principle of legal tender value being based upon a coin’s proportionate weight was repealed does not mean that Congress may actually now strike coin in disproportionate weight at otherwise proportionate values; Congress do not have such discretionary and arbitrary powers which violate such fundamental principles.

The 1853 act re-established circulation of silver coinage which had previously been wholly absent; the new fractional coins of a partial token quality which were struck at a lighter weight remained in circulation.

While the acts of 1834 and 1853 both became necessary because of prior strict adherence to an insupportable bi-metallic monetary standard, the political expedient route taken by the 1853 act destabilized the precious metal monetary standard itself as it began its first crude steps distancing itself from a strictly bi-metallic monetary standard.

By failing to consistently act to the degree necessary (and sever one of the metals wholly from a fixed parity or equivalency with the other), sadly Congress made a grave and unforgiveable error or they were doing so without the best of intentions. At best, they acted out of shear ignorance, or worse, out of malignant design.

The approach taken by the 1853 act of limiting the legal tender status of subsidiary silver coin (to the chagrin of the proponents of silver) effectively removed many of the teeth of the bi-metallic monetary standard (though, since the silver dollar coin remained unchanged with 371.25 grains of fine silver and at full tender, dollar silver coins yet remained in contention).

The disproportionate value of the silver coins (between the dollar coin and its fractions) removed the remaining teeth of the bi-metallic monetary standard as the silver coins’ internal strife discouraged a predominate use of silver in our money.

The striking of light-weight, disproportional fractional silver coins of proportional value marked for the first time constitutional money being severed from the time-honored principles of

substance overriding style; the first time that the names of the thing began to be substituted for the thing itself.

At least the 1792, 1834 and even 1837 acts clearly and properly upheld the just principle of the legal value of a coin being a precise weight of fine gold or fine silver. In 1853, this just principle was dealt a fatal blow, one that just took quite a while to fully cause the desired effect.

Section 6 of the 1853 act allowed private individuals to deposit silver or gold with the mint (for one-half percent fee, "in addition to the charge now made for refining or parting the metals" [see Section 18 of the Act of 1837]) to obtain one ounce, two ounce, three ounce, and five ounce pieces in standard fineness, and bars or ingots larger than ten ounces could be struck either in standard fineness or pure metal. The weight and fineness were to be stamped on all pieces struck at the mint.

Section 7 of the 1853 Act authorized the minting of a new three-dollar gold coin, in conformity with the Act of 1849 which authorized the gold dollar and double eagle (which were in due conformity to earlier monetary law).

Section F: 1873, February 12 Act

The **Coinage Act of 1873** (17 Stat. 424) became popularly known as the "Crime of '73", as yet a near-fatal blow was dealt to silver.

The Coinage Act of 1873 eliminated the striking of the old 371.25-grains-fine silver dollar and the provided therein for coining of a new "Trade Dollar" of 420 grains of standard silver (378 grains fine). This coin, being nearly two percent *heavier* than the 371.25-grains-fine silver dollar, was coined to meet the challenge of the then-current international trade coin, the Mexican Peso.

Chinese merchants had been refusing acceptance of anything other than the peso without up to a 15% premium (Breen, 1988; pg. 466), leading to international traders wanting the mint to do something to lower their exchange costs when importing foreign goods.

After weighing and assaying the new, heavier trade dollars, Chinese merchants began accepting them at par with the peso (one will generally find "hatch-marks" or "chop-marks" on the trade dollars, signifying a merchant's acceptance of the coin after proper examination of it).

The 1873 act made the trade dollars legal tender for domestic use to $5.00, ultimately bringing grievous results — there being two coins in circulation with the stated value of one dollar (just because new 371.25-grains-fine silver dollars were no longer being struck, did not invalidate those yet in circulation) with differing weights with the same face value without an exchange rate.

Due to the confusion, Congress revoked the Trade Dollar's legal tender status in a July 22, 1876 resolution (19 Stat. 215). Minting of the trade dollar for foreign trade continued for two additional years.

Section 1 of the February 12, 1873 act formally established the mint of the United States as a "bureau of the Treasury Department", with the chief officer being the "director of the mint", under the general direction of the Secretary of the Treasury.

Since the mint's establishment in 1792, it had been operating quite independent of any formal cabinet structure, though Section 7 of the April 2, 1792 act required the adjusting and settling of the mint's accounts "in the treasury department of the United States" under "forms and regulations as shall have been prescribed by that department".

The act of **March 3, 1835** was the first time Congress explicitly gave the Treasury Department supervisory authority over the mint, providing in **Section 4** that:

> "the general direction of the business of the said branches of the mint of the United States shall be under the control and regulation of the director of the mint at Philadelphia, subject to the approbation of the Secretary of the Treasury".
>
> Volume 4, Statutes at Large, Page 774 @ 775.

Sections 1 through 12 of the 1873 act dealt with the mint and its officers, prescribing new roles, requirements and pay.

Section 13 re-affirmed that the "standard for both gold and silver coins of the United States" be "of one thousand parts by weight nine hundred shall be pure metal and one hundred of alloy".

Section 13 further provided that the alloy of silver would again be wholly copper, but now also that the alloy of gold "shall be of copper, or of copper and silver" — therein specifically also limiting silver not to exceed but "one-tenth of the whole alloy".

Silver, perhaps little different than the late comedian Rodney Dangerfield, "got no respect" in the latter half of the 19th century, now even only as a mere component in the alloy of gold coins. Gold coins were now authorized to be struck without any silver whatsoever, while they were also specifically prohibited from containing any more than one percent of the disfavored metal.

Under Section 12 of the 1792 act and Section 8 of the act of 1837, the alloy of gold was allowed up to one-half silver, while the 1834, 1849 and 1853 acts were silent on the matter (thus keeping the status quo).

Section 14 of the **1873 act** detailed in part:

> "That the gold coins of the United States shall be a one-dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be the unit of value".

Section 14 of the 1873 act established not simply the dollar gold piece as "the unit of value", but the one-dollar gold piece "at the standard weight of twenty-five and eight-tenths grains". This appropriate emphasis on a specific weight of properly-fine gold thus re-established a true standard with proper parameters clearly delineated.

Gone from the unit of value was the coin of 371.25 grains of fine silver, and gold became the unit of value which it mostly received in 1853 (but which it then-shared with the silver dollar). In 1873, gold moved up several notches in a primarily single-metal monetary standard.

However, gold was still valued so greatly that extensive use of silver was yet required for everyday transactions (because the smallest gold coin would yet buy too much of minor goods). Thus, small silver coins, tarnished legally as they were from being light of weight and no longer proportional, were treated as a second or even third-class metal.

This, of course, drove others to use paper money even more than they would have otherwise done for mere convenience.

Section 15 established the silver coins; the new "trade-dollar" of four hundred and twenty grains troy; the half-dollar, now of twelve and one-half grams; the quarter and dime at one-half and one-fifth proportions of the half-dollar.

The subsidiary silver coins were now specified according to the metric system in grams, rather than in grains of the troy weight system (gold coins [and the trade dollar] were yet defined in grains of specified fineness).

The silver coins were all “legal tender at their nominal value for any amount not exceeding five dollars in any one payment”.

Though the silver coins were limited to the tender of five dollars in any one payment, nevertheless, there was yet an effective parity of gold to silver in that coins of both metals were yet all denominated in dollars and its parts or multiples.

The most important benefit provided in the 1873 act (from this author’s perspective) was that gold coins were properly restored their lost principle that any given gold coin’s actual value was only proportionate to its weight at a given fineness standard. **Section 14** stated (in reference to all the gold coins being struck [of one dollar, two-and-a-half dollars, three dollars, five dollars, ten and twenty dollars]):

> “shall be a legal tender in all payments at their nominal value, when not below the standard weight and limit of tolerance provided in this act for the single piece, and when reduced in weight below said standard and tolerance, shall be a legal tender at valuation in proportion to their actual weight”.

No similar statement of proportional value was given to the silver coins detailed in the act. Of course, the subsidiary coins of silver were already of lower weight than their face value would necessitate, so this just principle could not be applied to these debased coins.

The trade dollar, as the name implies, was primarily a coin for foreign trade. Thus, there was little sense to discuss the legal-tender value of this coin meant primarily for foreign trade, for no U.S. statute discussing legal tender status would have any effect in any foreign country anyway.

The five- and three-cent cupro-nickel (75% copper/25% nickel) coins and the one-cent copper coins were made, by Section 16 of the 1873 act, to be “legal tender, at their nominal value, for any amount not exceeding twenty-five cents in any one payment”.

This 1873 act was not the first legislative attempt which sought to apply legal tender status to base-metal coins not precious metal gold or silver. An **April 22, 1864** act first took these bold steps, with its **Section 4** stating, with regard to bronze (95% copper, 5% tin and zinc) cent and two-cent pieces therein authorized:

> “That the said coins shall be a legal tender in any payment, the one-cent coin to the amount of ten cents, and the two-cent coin to the amount of twenty cents”.

Volume 13, Statutes at Large, Page 54 @ 55.

Section 18 of the 1873 act again allowed for the motto “In God we trust” to be inscribed “upon such coins as shall admit of such motto”, which motto was first expressly authorized legislatively by Section 5 of the act of March 3, 1865 (13 Stat. 517 @ 518).

It was again the act of April 22, 1864, however, which had first allowed for the motto “In God we trust”. The said 1864 act specifically empowered the director of the mint, with the approval of the Secretary of the Treasury, discretion to provide for “mottoes”. At the suggestion of the director, with slight modification and approval of the Secretary, then, the two-cent 1864 bronze coins were the first coins actually struck by the mint with the motto “In God we trust”.

With the motto "In God we trust" emblazoned on the first non-precious metal coins declared to be legal tender, we thus find an appeal to God on the very coins first declared a legal tender which were not struck of gold or silver.

While all will do well to trust in God, that this motto first appeared on the first base-metal coins declared a (limited) tender shows that members of Congress are much less trustworthy.

Of course, even without the declaration of tender, the cent and two-cent coins were always valued in parts of a dollar. Thus there had always been an effective parity between copper and gold and silver which this tender quality only partially affected.

The step to declare non-gold or non-silver coins a legal tender, even to only ten and twenty cents, was nevertheless an audacious step, one without any constitutional support.

Section 33 provided the legal deviations for purity, in gold ingots one thousandth and silver three thousandths. Ingots of any metal with greater impurity could not be used in the coinage.

Section 36 allowed deviations by weight in the single piece of one-half of a grain in the eagle and double eagle; and in the half-eagle, three-dollar piece, quarter-eagle and the one-dollar piece one-fourth of a grain.

In five thousand dollars worth of double-eagles, eagles, half-eagles or quarter-eagles, the group of coins could not vary more than one-hundredth of an ounce. In three-dollar pieces or in one-dollar pieces, they also could not vary by more than one-hundredth of an ounce in but one thousand dollars. Congress charged the superintendent of the mint to ascertain whether the coins struck at the mint were within the legal limits of the standard weight.

Section 39 established it as the duty of the superintendent to:

> "ascertain, by the trial of a number of single pieces separately, whether the coins of that delivery are within the legal limits of the standard weight; and if his trials for this purpose shall not prove satisfactory, he shall cause all the coins of such delivery to be weighed separately, and such as are not of legal weight shall be defaced and delivered to the melter and refiner as standard bullion, to be again formed into ingots and recoined; or the whole delivery may, if more convenient, be remelted."

Section 49 established that the brass troy-pound weight procured by the minister of the United States at London in the year 1827 to be the "standard troy pound of the mint of the United States", for properly "securing a due conformity in weight of the coins of the United States.

Section 50 put a duty upon the director of the mint to procure for each mint and assay office "a series of standard weights corresponding to the aforesaid troy pound", in the "one-pound weight and the requisite subdivisions and multiples thereof, from the hundredth part of a grain to twenty-five pounds".

The "hundredth part of a grain" is obviously a very small measure indeed and from this microscopic weight one may understand the degree to which the mint followed their precise duty to properly prescribe the weights of the coins struck at the mint.

Section 54 established that the assay offices "be in all respects similar to that of the mints, except that bars only, and not coin, shall be manufactured therein".

Section 64 also made it a crime to fraudulently deface, increase or diminish the weights used at any of the mints or assay-offices.

That Sections 50 and 64 discussed the use and upkeep of "a series of standard weights" in the coining of America's money helps show that wording of Article I, Section 8, Clause 5 of the Constitution for Congress to "fix the Standard of Weights and Measures" is integral to that of coining money and regulating its value, as also detailed within the same clause.

Since the 1873 act established the mint of the United States as a bureau of the Treasury, Section 65 stated that as the act took effect, that the offices of the treasurer of the mints at Philadelphia, San Francisco, and New Orleans be vacated, and the assistant treasurer at New York cease to perform the duties of treasurer of the assay-office.

The duties of the treasurers were made to "devolve as herein provided upon the superintendents, and said treasurers shall act only as assistant treasurers of the United States".

The "assistant treasurers of the United States" referred to in Section 65 are those officers delineated in the act of August 6, 1846 (9 Stat. 59) which established what became known as the "Independent Treasury", which offered a stable alternative to both the first and second national banks, and also an alternative to the treasury keeping government money in various State "pet" banks (see also the acts of July 4, 1840 (5 Stat. 385) and August 13, 1841 (5 Stat. 439).

This Independent Treasury system allowed for the "divorce" of government from banks — the separation of bank and State — which today is sadly thought impossible, so "sophisticated" have we become and so reliant we have become on fictitious banking credits which poorly support our increasingly-fragile economy.

This "subtreasury" system, another name by which the Independent Treasury system was also known, will be discussed further under Chapter 9.

Section 67 repealed all acts inconsistent with this 1873 act.

Section G: 1878, February 28 Act

The act of **February 28, 1878,** ratified by two-thirds of both Houses over President Rutherford B. Hayes' veto, restored the coining and legal tender status of the 371.25-grains-fine silver dollar and eliminated the trade dollar.

In restoring the legal tender status of this 371.25-grains-fine silver dollar coin, Congress included a caveat not heretofore added, stating that the silver dollar coins in **Section 1**:

> "shall be a legal tender, at their nominal value, for all debts and dues public and private, except where otherwise expressly stipulated in the contract".
>
> Volume 20, Statutes at Large, Page 25

This provision expressly allowed "gold clauses" to be written into private contracts, as many creditors after the 1862 legal tender acts began requiring repayment of debts in gold.

This preference *toward* gold, of course, was every bit a bias *against* silver, which was certainly not helped by silver's inherent contradiction of disproportionate weight to its proportionate value which had undermined its use since 1853 as a known store of value.

The cessation of the minting of the 371.25-grains-fine silver dollar in 1873 and minting of the 378-grains-fine trade dollar further confused matters and added to the tarnishing of silver.

Immense discoveries of silver in Nevada (such as the Comstock Lode, for which Congress provided the proprietors thereof an easement over public lands for exploratory and drainage tunnels in a July 25, 1866 act [14 Stat. 242]) soon swayed the gold-to-silver ratio last changed in 1853 back toward and ultimately far surpassing the pre-1834 ratio.

Section 2 of the 1878 act called for an international conference to attempt to fix a gold-to-silver ratio by international agreement.

As too often viewed by government officials, previous failure is generally acknowledged only to the extent their proposed cure would be to their benefit. In this case, their failure to maintain a fixed parity between gold and silver was due to insufficient power at their disposal.

"Escape routes" allowed under previous insufficient law must be therefore eliminated in some new bold strategy. Section 2 took this tack, figuring if a significant number of world powers agreed to a pre-determined gold-to-silver ratio, then any variation between them could be eliminated (and both metals could then be safely used in a bi-metallic monetary standard).

It is informative to understand how far the gold-to-silver parity fell, not only due to the newfound silver in Nevada and elsewhere, but also because of a growing preference toward gold (not only in the U.S., but worldwide).

A quick look at the March 2, 1903 coinage act of our Congress for the (American territory of the) Philippine Islands (32 Stat. 952 [also located in Appendix F of Volume II]) provides some additional insight.

The Philippine "unit of value" was declared in Section 1 to be the "gold peso containing twelve and nine-tenths grains of gold nine-tenths fine", which gold peso would thus exactly correlate with one-half the American dollar of 25.8 grains of gold nine-tenths fine.

The ratio between gold American dollars and Philippine pesos was explicitly established in Section 1 "at the rate of one (American) dollar for two pesos".

Section 2 then authorized the silver peso of 416 grains of silver of .900 fineness (recall that our 1792 silver dollar had been 416 grains of .892428 fineness, changed in 1837 to 412.5 grains of silver of .900 fine).

Thus, while two Philippine gold pesos exactly equated with the American gold dollar, two Philippine silver pesos (also thereby equaling one American dollar) would contain 748.8 grains of fine silver. Two Philippine silver pesos would contain sufficient silver to equal approximately $2.02 in full-bodied American silver dollars, or by weight of 1853 subsidiary silver coins, a face value worth $2.17.

That silver in 1903 was only valued in the Philippine coinage act to one ounce of gold equating to some 32 ounces of silver shows that the value of silver — relative to gold — lost half of its former worth over the preceding half-century.

History to date would thus suggest that, looking into his crystal ball and gauging the past performance of gold as perhaps the best indicator of continued future stability, Alexander Hamilton was correct that gold as the single-metal money of account (if only one should be so chosen) would provide the least variation in the monetary unit (over the long-haul).

In the 1792 act, 15 ounces of silver equated with one ounce of gold, dropping to 16:1 by 1834. Though that rate went back to 15:1 in the early 1850's, over the latter half of the 19th century it dropped to half of silver's former lowest value (to 32:1). History would later prove this was but a prelude to a further drop over the 20th century by nearly another half, so now some 50 or 60 ounces of silver equate with one ounce of gold (reaching even 100:1 for a period of time in the early 1990's).

That silver lost some two-thirds or three-fourths its former parity over a 200-year period and is now worth but one-third or one-fourth of its former worth in gold appears quite devastating as a store of value.

However, a $10 Federal Reserve note fully redeemable in 1914 to $10 worth of lawful money started out in 1914 at a 1:1 parity with fine gold (then worth $20.67/ounce). That it today takes some $1,600 worth of (non-redeemable) Federal Reserve notes to now buy one ounce of gold shows approximately a 80:1 ratio — a twenty-fold *worse* performance as compared with silver in but half the time (remember, the notes started out in 1914 at 1:1 parity with gold).

Anyone with disparaging thoughts of silver as a poor store of value should rightfully have a twenty-fold lower opinion of Federal Reserve note dollars.

Of course, the fluctuations of gold and silver in Federal Reserve note dollars is not necessarily indicative of fluctuations of gold and silver, but of the paper dollars. It is no secret that many paper dollars (and other world paper currencies) are spent on gold and silver to

manipulate them up or down (thus a weakness of use of paper currencies which can be printed at will and more easily used for such blatantly-political purposes).

Section 3 of the 1878 act allowed for the first issuance of silver certificates, of $10 each, which were made “receivable for customs, taxes, and all public dues, and, when so received, may be re-issued.”

There was no attempt in this act to make the silver certificates a legal tender. Further discussion of silver certificates will be delayed until Chapter 10 on Notes. Gold certificates, incidentally, were first authorized by Section 5 of the March 3, 1863 (12 Stat. 709).

Section 1 of the Act of February 28, 1878 also “authorized and directed” the Secretary of the Treasury:

> “to purchase, from time to time, silver bullion, at the market price thereof, not less than two million dollars worth per month, nor more than four million dollars worth per month, and cause the same to be coined monthly, as fast as so purchased, into such dollars.”

Advocates of silver had taken a terrible beating politically between the 1853 and 1873 monetary acts. This was especially disconcerting to silver advocates since the 1853 act damaging silver was done precisely when it was the more-stable metal (as California gold production came online).

This requirement in 1878 for the Secretary of the Treasury to purchase between $2 million and $4 million worth of silver bullion each and every month and to coin silver dollars showed the success of their political re-grouping.

Though this action benefited the owners of the silver mines in the short term (with guaranteed purchases of their produce), coining vast numbers of silver dollars in weights now vastly different from their true world parity only acted to drive silver into further disparity and therefore into greater disfavor.

Section H: 1879, June 9 Act

The act of **June 9, 1879** is included within this chapter on Primary Coinage Acts not because it lessened the worst of the damaging effects of the 1853 act on subsidiary silver coin as it may first appear, but because it perhaps more clearly than other acts contrasts between coins which may yet be a partial "legal tender" but not otherwise "lawful money".

To better understand this act, it is necessary to recall that under the 1853 and 1873 acts earlier covered, that the debased silver coins of smaller denomination than one dollar contained some 7% less silver than their face values would indicate (compared with the dollar).

Since the act is so brief, it is also reproduced below in full.

> "CHAP. 12. — *An act to provide for the exchange of subsidiary coins for lawful money of the United States under certain circumstances, and to make such coins a legal tender in all sums not exceeding tend dollars, and for other purposes*.
>
> "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the holder of any of the silver coins of the United States of smaller denominations than one dollar, may, on presentation of the same in sums of twenty dollars, or any multiple thereof, at the office of the Treasurer or any assistant treasurer of the United States, receive therefore lawful money of the United States.
>
> "SEC. 2. The Treasurer or any assistant treasurer of the United States who may receive any coins under the provision of this act shall exchange the same in sums of twenty dollars, or any multiple thereof, for lawful money of the United States, on demand of any holder thereof.
>
> "SEC. 3. That the present silver coins of the United States of smaller denominations than one dollar shall hereafter be a legal tender in all sums not exceeding ten dollars in full payment of all dues public and private.
>
> "SEC. 4. That all laws or parts of laws in conflict with this act be, and the same are hereby, repealed.
>
> "Approved, June 9, 1879".

Volume 21, Statutes at Large, Pages 7 and 8.

The brief statute mentions "lawful money" twice and "legal tender" once.

Section 1 gave the "holder of any of the silver coins of the United States of smaller denominations than one dollar" the option to present the same (in $20 increments) to the Treasurer or any of the various assistant treasurers of the larger cities and "receive therefore lawful money of the United States".

Section 2 then instilled the duty on the said Treasurer (and the assistant treasurers) to pay out lawful money to any holder of the silver coins of the United States of smaller denominations than one dollar who so demanded it, when they presented these coins in twenty-dollar multiples.

Section 3 doubled the amount to which the debased smaller silver coins were a tender — to payments now of up to ten dollars — which had been established at five dollars in 1853 and continued in 1873.

Sections 1, 2 and 3 together detail that the fractional silver coins with a limited legal tender may be exchanged for “lawful money of the United States”.

Two things are important in this act.

First; that now (light-weight) silver coins with but a limited legal tender may be exchanged for lawful money on a condition (in multiples of $20).

Second; that coins with some seven percent less silver may be exchanged for full-bodied silver or gold coins (on the same condition).

Before the second point can be properly determined, further exploration into what is meant by “lawful money” is first necessary.

The first admission that debased silver coins of limited “legal tender” may be “exchanged” for “lawful money” helps show that the terms are not synonymous.

Under the original 1792 act, silver coins in denominations smaller than one dollar were a “lawful tender in all payments whatsoever” like the rest of the gold and silver coins then struck.

Silver coins in denominations smaller than one dollar were not severed from their full legal tender status until 1853, after their silver content was lightened in amount greater than their face value would dictate (in comparison with the unchanged silver dollar).

That coins with a full tender were made a partial tender only after they were lightened of their silver content to a greater degree than their face value would signify indicates that coins of unlimited tender must first be of full and proper weight.

That subsidiary silver coins with a limited legal tender value may be “exchanged” for “lawful money” shows that these limited legal tender coins are not lawful money.

That these subsidiary silver coins had a partial legal tender quality but were not lawful money shows that limited legal tender is a less-stringent quality than lawful money, to the extent that they reflect similar properties.

“Tender” reflects the tendering of something to another, as an “offer” (herein restricted to offers to pay [“tender” is often used non-monetarily, such as “to tender a resignation”]). While “money” is a noun, “tender”, if it actually isn’t being strictly used as a verb, is a noun certainly related to its use as a verb. Money is that offered in payment, and from this, is a “tender”.

While perhaps a full legal tender quality may be synonymous with lawful money, a limited legal tender is not.

It is helpful to examine usage of the term “lawful money” within other congressional acts to see if its usage elsewhere helps better explain the term, and how it differs with “legal tender” qualities, if it in fact does.

It is important to realize that the term "lawful money" was not used by any act of Congress whatsoever until the act of February 25, 1862, which first authorized the first issuance of the Civil War-era "greenbacks".

Section 1 of the **Act of February 25, 1862** authorized the Secretary of the Treasury:

> "to issue, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to the bearer".
>
> Volume 12, Statutes at Large, Page 345.

Section 1 further provided that the United States notes therein authorized (as well as the demand Treasury notes authorized by the Act of July 17, 1861 **[**which were being retroactively likewise so affected]):

> "shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

It is important to break down this lengthy portion of an even longer sentence into separate principles to better understand the principles therein established. The United States notes and the specified demand Treasury notes were to be:

1. ***receivable*** in payment of all taxes, internal duties, excises, debts, and demands of every kind due **to** the United States (*except* duties on imports);
2. ***receivable*** for all claims and demands **against** the United States of every kind whatsoever (*except* for interest upon bonds and notes, which shall be paid in coin); and
3. ***lawful money*** and a ***legal tender*** in payment of all debts, public and private, within the United States (*except* duties on imports and interest as aforesaid).

Thus, under instances one and two, the first-ever United States notes and the previously-authorized (non-interest-bearing) demand Treasury notes of July 17, 1861, except for specific exemptions mostly here irrelevant, were made "receivable" for obligations payable "to" and debts payable "by" the United States.

It makes some sense that debt obligations issued by the United States be made capable of offsetting debts owed to the United States (in the form of taxes, excises, etc.), so point one is perhaps understandable.

There is also rationale, if the government can get away with it at least (and can find sufficient number of creditors willing to loan on such terms, suppliers who will accept payment in the specified notes, etc.) that the government specifies what they prefer to pay in claims due by or against them (the exceptions showing when they cannot "get away with it").

Item 3, however, contains a totally different tact, now bringing force to bear on the matter for all parties other than those which relate in some manner to the items listed in parts 1 and 2.

The third point declares that the notes shall be “lawful money and a legal tender in payment of all debts, public and private” in a certain condition, again except for specified exemptions.

That “public” debts are again mentioned under the third point would initially seem oddly repetitive, if not for realizing that State and local public debts could not be included under the first two instances.

“Duties on imports” and “interest upon bonds and notes” do not here pertain to “private” debts, thus if our concerns relate primarily to private debts which affect ordinary individuals and businesses, the exceptions are here are again mostly irrelevant to us at this time.

Thus, because of the third point, the United States notes issued under the February 25, 1862 Act and demand Treasury notes issued under the Act of July 17, 1861 were now to serve as “lawful money and a legal tender” for all such private debts, at least all those private debts “within the United States”.

The express limitation (these notes being a lawful money and legal tender “within the United States”) will be later examined (Chapter 10 and thereafter) to determine if these words have any special significance.

For present purposes, it is only important to realize that the said notes which were specifically declared to be both a “lawful money AND a legal tender” in the third instance were NEITHER a lawful money NOR a legal tender for payment of taxes, internal duties, excises, debts, and demands of every kind due **to** the United States or claims **against** the United States under conditions 1 and 2 above, but were only “receivable” for the said demands and claims.

Even more important to understand is that the notes which were elsewhere held to be both lawful money and a legal tender and which notes were receivable for various government obligations or payments, <u>were not even “receivable” for specific payments</u> (could not even be used for the payment of duties on imports or interest).

That the notes which are in one place both lawful money and a legal tender cannot even be used (received) for the payment of duties on imports or interest tells us that either the difference of locations (“within the United States”) or the parties or debts being differentiated (the United States’ debts, private debts, or public debts other than to or from the United States) are, separately or together, of fundamental difference. This matter will be herein deferred for the present discussion (as much more information must first be covered).

Significantly, Section 1 of the first act to institute legal tender/lawful money notes specifically and explicitly recognizes therein that “<u>coin</u>” is the <u>ultimate form of payment</u>., when it affirms that “interest upon bonds and notes…shall be paid in coin”.

Gold coins and full body silver coins are inferred, of course, since that is what the acts of Congress for the first 60 years authorized (copper not being to any extent a tender [at least as of this date], and light-weight subsidiary silver coins as of this date were limited to a tender of only $5).

That the very first act authorizing a legal tender national paper currency candidly admits that coin is the ultimate form of payment is significant, admitting a clear hierarchy from the outset, with gold and silver coin commanding an appropriate clear dominance.

The act of **March 17, 1862** enacted just three weeks later removed some of the limitations on the use of demand Treasury notes (issued on July 17, 1861 and in a separate February 12, 1862 Act). **Section 2** detailed:

> "the…notes…shall, in addition to being receivable in payment of duties on imports, be receivable, and shall be lawful money and a legal tender, in like manner, and for the same purposes, and to the same extent, as the notes authorized by an act…approved February twenty-fifth, eighteen hundred and sixty-two."
>
> Volume 12, Statutes at Large, Page 370

Thus, the exception of item 1 listed under the February 25th act above exempting the use of demand Treasury notes in the payment of import duties is removed for these notes, that they could now be used to pay customs.

The March 17th act doesn't tell us anything more, since the act specifically provides that the notes shall be lawful money and a legal tender only "in like manner, and for the same purposes, and to the same extent" as discussed under the February 25th act.

The **July 11, 1862 Act** for an additional issue of United States notes, similarly to the February 25th Act declares again in **Section 1** that these new issues:

> "shall be receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest upon bonds, notes, and certificates of debt or deposit ; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid."
>
> Volume 12, Statutes at Large, Page 532

Though the July 17, 1861 and February 12, 1862 demand Treasury notes were both capable of being used for the payment of import duties because of the March 17, 1862 act, the February 25, 1862 and July 11, 1862 issues of United States notes interestingly could not. This signifies a difference between Treasury notes (first issued in 1812, though they were not then "demand") and United States notes (relevance again deferred until Chapter 10 and beyond).

The "lawful money and a legal tender" wording in this July 11, 1862 act does not lend further support to properly understand their meanings (the exemption on interest "upon bonds, notes, and certificates of debt or deposit" not adding anything significant to our discussion).

Section 1 of the **March 3, 1863** act authorized the Secretary of the Treasury to borrow up to $300,000,000 on coupon or registered bonds, which could be disposed of by payment in (underscore added):

> "lawful money of the United States, <u>or</u> for any of the certificates of indebtedness or deposit that may at any time be unpaid, <u>or</u> for any of the treasury notes heretofore issued or which may be issued under the provisions of this act."
>
> Volume 12, Statutes at Large, Pages 709 and 710

By listing "lawful money of the United States" as an alternative to "certificates of indebtedness or deposit" or for "any of the treasury notes heretofore issued" or "which may be issued under the provisions of this act", this acknowledges that neither the certificates of indebtedness or deposit nor treasury notes issued to date were themselves "lawful money of the United States".

Section 2 further authorized the Secretary of the Treasury to issue "on the credit of the United States" $400,000,000 in interest-bearing treasury notes.

Section 2 further mandated that interest on the treasury notes "shall be paid in lawful money" and further stated that:

> "said treasury notes may be made a legal tender *to the same extent as United States notes*, for their face value excluding interest".
>
> Volume 12, Statutes at Large, Page 710

Section 2 stated that the interest-bearing treasury notes "may be made" a legal tender, not that they *were* made a legal tender. There was no similar allowance that they may be or were made lawful money. They were allowed to be made, however, "exchangeable" for United States notes.

The treasury notes thus exchanged, redeemed or paid were to be cancelled and destroyed, and United States notes issued in their place.

Section 3 authorized that the Secretary of the Treasury:

> "if required by the exigencies of the public service, for the payment of the army and navy, and other creditors of the government, to issue on the credit of the United States the sum of one hundred and fifty millions of dollars of United States notes…in such form as he may deem expedient, not bearing interest, payable to bearer…which notes so issued shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt ; and any of the said notes, when returned to the treasury, may be reissued from time to time as the exigencies of the public service may require.
>
> *Ibid*.

The March 3, 1863 act provided new wording for the lawful money/legal tender qualities of the treasury notes, which were to be "lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt".

Of course, due to Section 2, the treasury notes authorized by this act "may be made a legal tender" only "to the same extent as United States notes".

The wording detailed in Section 3, as compared with the February 25, 1862 act, simplified the wording regarding tender, even if the qualities of tender were actually identical (due to the overriding command of Section 2, being that they were a tender only "to the same extent as United States notes").

Thus, even though the new wording (declaring they were lawful money and a legal tender) differed from the February 25, 1862 act, they actually both had the same meaning. At the same time, however, not near as much information is actually being now provided to help decipher the meaning.

Importantly, the specific phrase "within the United States" was again expressly inserted also within this act, perhaps thus signifying importance, as repetition of key buzzwords often provides important clues when deciphering legal subterfuge.

New in Section 3 was the phrase "exigencies of the public service", which was twice-mentioned in a short period — a line of thought of "government-by-crisis", almost as if government may have greater power in times of necessity (indeed, as politically "expedient" as noted in the act).

The only good thing regarding this non-constitutionally-supported principle of "government-by-emergency" is basically therefore an admission of its inverse — that without such exigencies, that the Secretary would not be required to issue such United States notes, perhaps even indicating that an issuance of the notes without the necessity would even then be improper.

No additional insight is provided by the March 3, 1863 act on the meaning of lawful money or legal tender.

On **March 3, 1871**, Congress authorized and required the Secretary of the Treasury to "redeem in lawful money", all copper, bronze, copper-nickel, and base-metal coinage, stating, in this very brief act:

> "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby authorized and required to redeem in lawful money, under such rules and regulations as he may from time to time prescribe, all copper, bronze, copper-nickel, and base-metal coinage of every kind heretofore authorized by law, when presented in sums of not less than twenty dollars ; and whenever under this authority these coins are presented for redemption in such quantity as to show the amount outstanding to be redundant, the Secretary of the Treasury is authorized to discontinue or diminish the manufacture and issue of such coinage until otherwise ordered by him.
>
> APPROVED, March 3, 1871."
>
> Volume 16, Statutes at Large, 580

Since copper, bronze, and copper-nickel base-metal coinage were capable now of being redeemed in lawful money, coins of these base metals are obviously not lawful money (as was also found in the 1879 act covered at the beginning of this sub-chapter).

Section 29 of the act of **February 12, 1873**, declared, in part (italics added):

> "That for the purchase of metal for the minor coinage authorized by this act, a sum not exceeding fifty thousand dollars in *lawful money of the United*

> *States* shall be transferred by the Secretary of the Treasury to the credit of the superintendent of the mint at Philadelphia".

Recall that this February 12, 1873 act was herein earlier covered as one of the primary coinage act of Congress, one that discussed gold coins, the silver trade-dollar, subsidiary silver coins denominated at less than one dollar, and five-, three-, and one-cent base-metal coins. Thus it is important to know what is meant by the term "minor coinage authorized by this act".

Section 16 of the 1873 act informs us that:

> "the minor coins of the United States shall be a five-cent piece, a three-cent piece, and a one-cent piece, and the alloy for the five and three cent pieces shall be of copper and nickel, to be composed of three-fourths copper and one-forth nickel, and the alloy of the one-cent piece shall be ninety-five per centum copper and five per centum of tin and zinc, in such proportions as shall be determined by the director of the mint."

The "minor coins" are coins of copper, bronze or copper-nickel.

Whereas Section 29 of the 1873 act mentioned above does not provide many clues as what do or do not form part of the lawful money of the United States, Section 30 does provide a few clues as to what are not. **Section 30** reads, in part (again with italics added):

> "That the minor coins authorized by this act…shall be *exchangeable* at par at the mint in Philadelphia, at the discretion of the superintendent, for any other coins of copper, bronze, or copper-nickel heretofore authorized by law ; and it shall be lawful for the treasurer and the several assistant treasurers and depositaries of the United States to *redeem*, in *lawful money*, under such rules as may be prescribed by the Secretary of the Treasury, all copper, bronze, and copper-nickel coins authorized by law when presented in sums not less than twenty dollars".

The minor coins of copper, bronze or copper-nickel authorized by the 1873 act were "exchangeable" with any other coins of copper, bronze or copper-nickel (authorized by any other act), but were "redeemable" in lawful money.

In the 1871 act, base-metal copper, bronze and cupro-nickel coins were also made "redeemable" in lawful money under various rules issued by the Secretary of the Treasury.

In the 1879 act discussed at the sub-chapter beginning, the light-weight silver coins in less denomination than one dollar were made "exchangeable" with lawful money.

As used in these acts, "exchange" indicates a swap of coins of similar material or value (light-weight subsidiary silver coin for full-bodied silver [or gold] coin, or copper, bronze and copper nickel coins for other coins of copper, bronze, and copper-nickel), whereas "redeem" indicates a swap between items without such similarity (base metal coins or paper notes for gold and [full-bodied] silver coin).

Coins of sufficient likeness are "exchanged" for one another; items without likeness are "redeemed" for a superior type of material or greater value.

Since paper notes and copper, bronze, and copper-nickel coins may be "redeemed" in "lawful Money", this again provides evidence that they are not themselves lawful money, but inferior to it (paper notes claiming to be lawful money will be further discussed later).

"Lawful money" is mentioned repeatedly in acts of 1882, 1890 and 1900 which amended national-banking laws, but the mentioning therein doesn't aid our efforts in determining what is included within the term.

"Lawful money" is also mentioned nine times in the **Federal Reserve Act of December 23, 1913**, including the more informative instances below.

Section 13 discusses "deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks and drafts upon solvent member banks", again providing evidence that national-bank notes, Federal reserve notes, and checks or drafts are not lawful money (as they are again offered as an alternative to it).

Section 16 of the Federal Reserve Act authorized the Federal Reserve Board to issue Federal reserve notes. **Section 16** detailed that the Federal Reserve notes:

> "shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in gold on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or in gold or lawful money at any Federal reserve bank".
>
> Volume 38, Statutes at Large, Page 251 @ 265

Further:

> "Every Federal reserve bank shall maintain reserves in gold or lawful money of not less than thirty-five per centum against its deposits and reserves in gold of not less than forty per centum against its Federal reserve notes in actual circulation".
>
> *Ibid*., Page 266

In addition:

> "Any Federal reserve bank may at any time reduce its liability for outstanding Federal reserve notes by depositing, with the Federal reserve agent, its Federal reserve notes, gold, gold certificates, or lawful money of the United States."
>
> *Ibid*., Page 267

And lastly, for our present purposes:

> "The Federal reserve agent shall hold such gold, gold certificates, or lawful money available exclusively for exchange for the outstanding Federal reserve notes when offered by the reserve bank of which he is a director."
>
> *Ibid*.

The Federal Reserve Act shows that neither gold (bullion), nor gold certificates, nor Federal reserve notes were then lawful money (gold coin and full-bodied silver coin).

Though originally Federal Reserve notes were capable of being "redeemed in gold on demand at the Treasury Department of the United States" and were redeemable in "gold or lawful money at any Federal reserve bank", the notes themselves were not declared lawful money.

While the various acts of Congress discussed above are not exactly forthcoming in declaring what exactly is meant by the term "lawful money", it is yet informative to realize that all the acts which discussed payment of "lawful money" were acts which did not actually therein strike lawful money; the acts did not mint gold or full-bodied silver coin.

When gold and silver coins were struck for the first 70 years, no act ever discussed "lawful money". Only when and after paper notes were held to be a legal tender (and lawful money) did the term come into the vocabulary of the legislative acts.

Acts which discussed demand Treasury notes and United States notes, as well as acts which discussed copper, bronze, and cupro-nickel minor coins and even debased subsidiary silver coinage all discussed lawful money as their alternatives (even if they implied otherwise [that such notes were lawful money]).

The congressional acts discussed thus far in this sub-chapter do not necessarily help determine what is or what are lawful money, but they do help show what are not lawful money — demand Treasury notes, United States notes, Federal Reserve notes, minor base coins, and debased subsidiary silver coins.

The process of elimination helps point to only full-bodied silver and gold coins only as lawful money, those things which had no limitation whatsoever in their use (with use of gold clauses in the individual instance over-riding silver coins as legal tender in that instance).

Thankfully, Congress does at least once provide a clear, concise definition of "lawful money" within a legislative act. The act of **July 12, 1870** stating, in part, in **Section 5**:

> "That in applying the provisions and requirements of said act to the banking associations herein provided for, the terms 'lawful money' and 'lawful money of the United States' shall be held and construed to mean gold or silver coin of the United States".
>
> Volume 16, Statutes at Large, 251 @ 253

The terms "lawful money" and "lawful money of the United States" are "held and construed" by Congress to mean "gold and silver coin of the United States".

Of course, due to the explicit disclaimer ("That in applying the provisions and requirements of said act to the banking associations herein provided for"), the definition of "lawful money" and "lawful money of the United States" used within this particular act cannot necessarily be extended beyond it.

However, neither does the disclaimer necessarily mean that the definitions provided are NOT the appropriate definition for lawful money in every normal case, for such definition fully coincides with the principles stated throughout the Constitution and also ***Monetary Laws***.

This author maintains that the only things which should be defined as lawful money would be gold and (full-bodied) silver coin (while yet arguing for one metal only).

Recall that "coin" was specifically acknowledged as the highest form of payment for interest on the public debt in Section 1 of the February 25, 1862 act which first provided for legal tender/lawful money notes.

The minor base-metal coins, as well as the debased silver coins with smaller denomination than one dollar, did not deserve to have equivalent value with full-bodied silver or gold coins which the 1879 act was expressly providing.

By what principle may Congress pay out twenty dollars when receiving only $18.60 cents worth of silver (93 cents on the dollar)? By what power may Congress first take the profits of minting coin with a "nominal value exceeding the intrinsic value"? By what power may Congress then transfer these profits to others who present themselves at the treasury?

As with the bestowing of any unearned honor on those unjustified, these legislative acts really only further damage that which is true and earned. Establishing a legal equivalency upon those things which are not merely damages further respect for law.

These acts improperly extend and therefore unjustly support a falsely-declared value triumphing again over actual weight of properly-fine precious metal, which cannot be just or proper.

Though by rights according to the given value of the subsidiary silver coins and base metal coins, they should be exchanged in other full-bodied lawful tender coins, by weight of properly-fine precious metal, they certainly should not. If there be any disparity between fine weight and declared value, weight must prevail.

Congress erred in 1853 when making otherwise light-weight coins have a full value — Congress should not now amplify their error and make the light-weight coins exchangeable for full-weight coins. If one is discussing what Congress "should do", it is appropriate to start at the proper base level of appropriate action (not after conceding improper action as a base level).

As covered thus far in this sub-chapter, lawful money was a term used when a legal tender/lawful money paper currency was first issued in 1862. Lawful money appears however to be fully equivalent with coins of unlimited legal tender, while superior to coins with only a limited legal tender.

American-struck gold and full-bodied silver coins were legal tenders in all payments whatsoever (at least without the consideration of gold clauses).

Since an act of February 21, 1857 (11 Stat. 163) repealed "all former acts authorizing the currency of foreign gold or silver coins", and that the term "lawful money" was not used by any act of Congress before 1862, no act of Congress provides direct insight if any foreign coin made current in the United States would be considered "lawful money" even as many were expressly acknowledged as legal tender.

The numerous acts which inferred that demand Treasury notes and United States notes were to some degree both a legal tender and lawful money, *yet could not be used in all instances* (and which acknowledged that a greater form of payment existed [coin]), will be discussed at much greater length in and after Chapter 10.

The act of June 9, 1879 provided that debased silver coins containing some 7% less silver by weight, which themselves may only be tendered in payment of debts to the single payment of once five and now ten dollars, may be "exchanged" in increments of twenty dollars by the Treasurer or any assistant treasurer of the United States "for lawful money".

The act of March 3, 1871 provided that copper, bronze, copper-nickel, and base-metal coinage could be redeemed in lawful money under "such rules and regulations as he may from time to time prescribe", with the act of February 12, 1873 repeated such provision.

This practice of exchanging debased silver coins of limited tender and redeeming base-metal minor coins both for full-body lawful money silver and gold coins shows that Congress was perhaps carrying the valuations provided in coin since 1792 to their logical extension.

If a copper penny was truly worth one cent — 1/100 of a dollar — there is a certain amount of rationale in making every 100 copper pennies directly redeemable in said silver or gold dollars.

As people could now obtain the amount of silver or gold as the face value of the coins in their possession would suggest, these acts helped instill a certain amount of justice in the valuation world (though at the far greater cost of Congress attempting to fix a false parity between differing metals).

Perhaps people anticipating spending their small coin would not likely go through the added effort to take the extra time to present their coins for redemption or exchange, but undoubtedly people anticipating saving their small change would do so, at least when convenient.

Of course, where there was profit to be made in such an exchange or redemption, profit-taking would surely follow — thus, one finds the express limitation on the principle allowing redemption on the base-metal coins, that the Secretary of the Treasury may issue "such rules and regulations as he may from time to time prescribe" which would then be designed to curb such inevitable inclinations.

That there was no similar principle found listed in the June 9, 1879 act to protect against the practice of taking light-weight silver coins to the Treasury or subtreasury and receiving full-bodied silver coins for transport to foreign lands shows that Congress was then little worried about such arbitrage practices (suggesting that silver was then too over-valued in the U.S., as compared to other countries to allow this).

Of course, with silver at a fixed parity to gold, holders of either could always exchange one for the other at the Treasury or any of the subtreasuries, as it had remained the stated policy for the government to maintain their fixed parity.

That the U.S. government was better withstanding the pressure of maintaining the fixed parity between gold and silver even as their disparity grew further apart in the latter 19th century shows that the government was then much better financed.

Even with a better-financed government, however, continuous and mounting pressure was being exerted on the fixed parity of silver to gold, such that something one day had to eventually give in a big way (see Chapter 12).

Section I: 1900, March 14 Act

Section 1 of the Act of **March 14, 1900** established:

> "That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, as established by section thirty-five hundred and eleven of the Revised Statutes of the United States, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at the parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity".

Volume 31, Statutes at Large, Page 45

In 1792, silver and gold were fixed by law at strict 15:1 parity in all measures, resulting in the exacting-yet-cumbersome purity standard of silver at 1,485 parts fine out of 1,664 parts. In 1834, a changing gold eagle and its fractions drove the silver-to-gold parity downward to approximately 16:1.

In 1837, the gold eagle gained a mostly-insignificant .2 grains as the purity was made .900 fine. In 1849, a gold dollar coin became a reality, placing gold on an equal status with silver with a coin at the unit weight (of one dollar or one unit).

In 1853, while gold production increased dramatically, small silver coins were lightened some seven percent, tarnishing silver when it should have received a polish. Silver (except the dollar) took a back-seat to gold.

The 1873 act followed, wherein the 371.25-fine-grain silver dollar was given the knife and was cut from further production. As silver was being kicked to the curb, gold was moved front-and-center as the primary monetary metal, with the gold dollar of proper weight and fineness being made the "unit of value". Gold became the only monetary metal with an unlimited tender.

In 1878, the 371.25-fine-grain silver dollar was re-authorized and restated to be legal tender, but gold clauses were specifically authorized to privately over-rule such legal tender status on a case-by-case basis at the discretion of the parties involved in any given transaction.

Finally, in 1900, the gold dollar of 25.8 grains of gold nine-tenths fine was declared to be the "standard unit of value", fully displacing silver from the game.

The gold dollar of twenty-five and eight-tenths grains of gold nine-tenths fine became the monetary standard by which all other money would be measured (even after gold dollars were no longer struck, following the act of September 26, 1890 [26 Stat. 485]).

From such a battered history, silver was knocked down, but not yet fully out as a monetary metal. Section 1 of the 1900 act nevertheless stated that it "shall be the duty of the Secretary of the Treasury to maintain" the parity of other monetary metals with the value of the gold dollar.

Section 3 added a few more pertinent words on the subject:

> "That nothing contained in this Act shall be construed to affect the legal-tender quality as now provided by law of the silver dollar, or any other money coined or issued by the United States ."

Section 14 also stated:

> "That the provisions of this Act are not intended to preclude the accomplishment of international bimetallism whenever condition shall make it expedient and practical to secure the same by concurrent action of the leading commercial nations of the world and at a ratio which shall insure permanence of relative value between gold and silver".

While gold had clearly moved into the position of most-favored metal, Congress had not yet given up on the concept of bi-metalism, although they realized they could not support such parity by themselves (see Appendix J).

The remainder of pertinent sections of the act of March 14, 1900 is discussed under Chapter 10.

Chapter 7: Secondary Coinage Acts, Commemorative Coinage Acts

A computer-searchable compilation of America's monetary laws in one source offers convenience for anyone studying this important subject; one will thus find in Volume II of ***Monetary Laws*** (available at www.MonetaryLaws.com) an Appendix containing the texts of various acts of Congress which relate one way or another to money (with an occasional resolution, executive order or presidential proclamation or two thrown in for good measure).

However, many of these laws have little direct import on the primary purpose of the narrative portion of Volume I of this book. Thus, in attempt to maintain the proper focus of proving the American dollar is a precise weight of gold or silver at specified fineness and to show how the United States deceptively established paper notes in the place of coin (both expounded upon under an overall purpose of explaining how the government appears to act superior to the Constitution), the chapters of Volume II on Secondary Coinage Acts, Early Commemorative Acts, and Modern Commemorative Acts will be skipped over here in the narration in Volume I, except as follows below. Other acts in other chapters will be detailed in Volume I primarily as they remain relevant to the above-stated purpose.

It should be noted that modern commemorative coins are yet struck in their historical weight, fineness, and valuations (note that the one ounce and fractional-ounce American eagle bullion coins are not commemorative coins).

The dime, quarter-dollar and half-dollar coins of the various silver proof sets contain the same silver weight and fineness of silver as specified in the act of February 21, 1873 (the half-dollar of 12.5 grams, and the others in proportion to their value).

Commemorative silver dollars contain 412.5 grains of 900 fine standard silver — the same 371.25 grains of fine silver which the dollar has had since first authorized in 1792 and in the same standard weight and fineness since 1837.

The modern commemorative gold eagles contain the same 258 grains of gold 900 fine since 1837, while the half-eagle commemorative coins also contain 129 grains gold also 900 fine.

In other words, the mint does actually strike gold and silver coins in their historically-accurate weight, fineness and valuation; unfortunately, they are only struck in proof and uncirculated conditions, and thus only in small quantities as there is demand for such high-quality coins.

Of course, there is no comparison in value between these American dollars of silver and gold and Federal Reserve note dollars. While these silver and gold dollars have not changed in amount, purity, or value, highly-depreciated Federal Reserve note dollars certainly have.

Thus, of course, it takes a vast number of Federal Reserve dollars to purchase the recently-minted commemorative gold and silver coins. That it takes so very many Federal Reserve note dollars to purchase one silver dollar or one five-dollar gold half-eagle is not a poor reflection on the silver or gold dollars (other than their premium due to proof and uncirculated conditions, and surcharge for the various causes worthy of commemorating in the coin), but certainly is a poor reflection on the drastically-devalued Federal Reserve note dollars.

Chapter 8: Acts Respecting Foreign Coin

Section A: 1793, February 9 Act

Section 1 of the act of **February 9, 1793** (1 Stat. 300) regulated the American value of various foreign coins which would thereafter “pass current as money in the United States” and be “a legal tender for the payment of all debts and demands”.

Section 1 further specified that “the gold coins of Great Britain and Portugal, of the present standard”, shall be at the “rate of one hundred cents” for “every twenty-seven grains of the actual weight thereof ” and that “the gold coins of France, Spain and the dominions of Spain, of the present standard”, shall be at the “rate of one hundred cents” for “every twenty-seven grains and two fifths of a grain, of the actual weight thereof.”

Since the gold coins of Great Britain and Portugal were rated at one dollar (literally, 100 cents) for every 27 grains, one can see that these gold coins were valued at the same rate per weight of standard gold as the newly-established American coins (1,000 cents for every 270 grains, for our ten-dollar eagle) and thus they were all of identical fineness. However, since it took 27.4 grains of French and Spanish gold to equate with 100 cents, the fineness of French and Spanish gold coins were obviously a little lower than American coins.

Section 1 also detailed various coins of silver of Spain and France and gave their equivalent rates. The Spanish milled dollar, was of course rated at 100 cents, as long as “the actual weight whereof shall not be less than seventeen pennyweights and seven grains”.

Although the 415-grain-weight ([17 X 24] + 7 = 415) of the Spanish milled dollar was one grain less than the standard weight set for the 1792 American silver dollar, its fineness was slightly more pure. The Spanish dollar typically contained a slightly-greater amount of fine silver than the U.S. dollar, however (worth actually 100 cents, 6 mills, according to a December 27, 1826 report on the assay of foreign coins, as reported to Congress by director of the mint Samuel Moore [reference provided below]).

Since assays of foreign coin would test samples of the foreign coin in actual circulation within the United States, they would sample the ordinary and common, not ideal. Spanish coins, of course, had been long minted. Thus, many had long been exposed to abrasion.

In the 1826 report on the assay of foreign coins, director of the mint Moore reports that:

> “The average loss on a silver currency, it appears, is nearly four grains of silver from the dollar, or about one cent in value in a period of fifty years. The loss on gold coin, it may be incidentally remarked, appears…to be not less than two per cent within the same period.”
>
> Volume 5, American State Papers, Page 585 @ 589.

That a silver dollar typically loses only one penny’s worth (or one percent) of silver in 50 years of normal circulation, while gold coins lose about two percent over the same interval shows that gold and especially silver coins hold up remarkably well in circulation. Moore also comments that small silver coins “are in more constant action and lose proportionally more”. *Ibid*.

During the earlier discussion of the June 28, 1834 act under Chapter 6, Section B, recall that the 1834 act provided an exchange rate between American coins of two different standards of weight and fineness, and expressed the rate of the old in terms of "cents per pennyweight".

In this 1793 foreign coinage act, one finds that Congress provided the exchange rate between foreign and American gold coins in "cents per grain" (silver was stated in cents per pennyweights and grains).

"Cents per grain" seems to be a much easier concept for most people to comprehend, as compared with a "pennyweight", likely because the latter term is so unfamiliar.

Either way, cents per grain or cents per pennyweight directly acknowledges that legal tender money is but an amount and purity of gold or silver.

The foreign coinage acts of Congress show that it did not necessarily matter whether gold or silver coins were struck domestically; foreign-struck coins of gold and silver were also made current as legal tender money in the United States, the same as domestically-struck coins.

It matters not where gold or silver are mined; it matters little where they are minted; what matters most is that coins are made of precious metals of determinable purity and weight.

The rating of foreign gold and silver coin in so-many American cents allowed us the benefit of foreign mints — their output of gold and silver coin — without cost or effort (other than annual assays and then use of accurate scales and a little calculation at each trade).

It is true that since the control of foreign mints was determined by foreign powers, that Congress exercised no control whatsoever over the denomination, purity, or weight of these foreign coin.

However, Congress merely required regular assays of foreign coin to determine their compositional purity and then Congress could establish American rates for these foreign coins by their weight, thereby obtaining their full benefit.

The primary drawback of foreign coin made current in the United States, of course, is that their American valuations resulted in an odd-denomination value of the coins — recall the 1792 American gold eagle became worth $10.665 in 1834 (not exactly a convenient figure for use in trade).

Precise calculations are necessary to consummate transactions involving payments in foreign coin computed in American dollars, for their odd-value wouldn't provide easy computations of their total value (other than the Spanish milled dollar).

The legal tender status of one or another foreign coin circulating in America current as money lasted until 1857.

That various foreign coin circulated in the United States for 64 years current as money provides real-world experience that computations determining a coin's value do not prohibit trade with it (and thus, that American gold coins could be severed from our money of account without severe harm).

That the legal tender value of foreign coin was ultimately stopped provides some evidence that calculation of equivalent rates was not of great convenience, and did impose some burden in their use.

Establishing the silver dollar as our money of account, and coining gold eagles (and perhaps copper pennies) whose trade value in dollars was determined at the time they were spent would be of no difference than in Americans using foreign money. Thus, the use of foreign coin for 64 years as forming part of our legal tender money thus proves the concept of a single-metal monetary system with the value of the coins of the second metal determined by calculation.

Section 2 of the 1793 foreign coinage act provided a deadline for the ending of the legal tender status of these foreign coins, which was originally three years after coin production commenced at the mint of the United States (except the Spanish milled dollar and its parts, which were to remain a tender).

Section 3 provided that once the coining of American gold and silver coin began, that foreign coin received by the United States in payment (except the Spanish milled dollars and its parts) were to be re-coined into American coins in conformity to the 1792 Act, stating that**:**

> "That all foreign gold and silver coins, (except Spanish milled dollars, and parts of such dollars,) which shall be received in payment for monies due to the United States, after the said time, when the coining of gold and silver coins shall begin at the mint of the United States, shall, previously to their being issued in circulation, be coined anew, in conformity to the act, entitled "An act establishing a mint and regulating the coins of the United States."
>
> Volume 1, Statutes at Large, Page 301

Foreign coins were thus to serve as a ready source of raw material for the coining new American gold and silver coins, once they found their way to the mint.

Section B: 1797, July 22 Proclamation

President John Adams' **July 22, 1797 Proclamation No. 6**, detailed that:

> "coinage of silver at the mint of the United States, commenced on the fifteenth day of October, one thousand seven hundred and ninety-four, and the coinage of gold on the thirty-first day of July, one thousand seven hundred and ninety-five".
>
> Volume 11, Statutes at Large, Page 755

The significance of President Adams listing of the dates which minting began for both silver and gold by the mint was detailed in **Section 2** of the **February 9, 1793 Act**, which read:

> "That at the expiration of three years next ensuing the time when the coinage of gold and silver…shall commence at the mint of the United States, (which time shall be announced by the proclamation of the President of the United States,) all foreign gold coins, and all foreign silver coins, except the Spanish milled dollars and parts of dollars, shall cease to be a legal tender, as aforesaid."

Volume 1, Statutes at Large, Page 301

President Adams so indicated in his proclamation that "all foreign silver coins, except Spanish milled dollars and parts of such dollars, will cease to pass current as money within the United States and to be a legal tender for the payment of any debts or demands after the fifteenth day of October next" (October 15, 1797). Volume 11, Statutes at Large, Page 755

President Adams also stated that "all foreign gold coins will cease to pass current as money within the United States and cease to be a legal tender as aforesaid for the payment of debts or demands after the thirty-first day of July, which will be in the year of our Lord one thousand seven hundred and ninety-eight". *Ibid.*

It should be specifically pointed out that the proclamation's statement that the legal tender status of foreign gold and silver coins would end on specific dates was not authoritative on the matter. The President's role was merely to confirm the date minting began of silver and the date minting began of gold; it was the operation of the terms of the legislative act which then would end the legal tender quality of the foreign coin three years later.

Section C: 1798, February 1 and 1802, April 30 Acts

The **February 1, 1798** act suspended operation of the second section of the February 9, 1793 act (and therefore also the effect of President Adams' proclamation). Suspending a negative therefore continued the legal tender status of all foreign coin covered in the 1793 act, "for and during the space of three years from and after the first day of January, one thousand seven hundred and ninety-eight, and until the end of the next session of Congress thereafter". Volume 1, Statutes at Large, Page 539

Due to this 1798 act, the "said gold and silver coins shall be and continue a legal tender, as is provided in and by the first section of the act aforesaid ; and that the same coins shall thereafter cease to be a tender." *Ibid.*

An **April 30th, 1802** act followed suit of the February 1, 1798 act and further suspended the suspension portion of the February 9, 1793 act. This maintained the legal tender status of all foreign coin covered in the 1793 act for a further period of three years "from and after the end of the present session of Congress". Volume 2, Statutes at Large, Page 173

Section D: 1806, April 10 Act

An **April 10, 1806** act re-specified new foreign exchange rates. As nothing had changed in the coins or standards of the United States, nor of the specified coins of Great Britain, Portugal, France and Spain (and her dominions), the 1806 act re-specified the same rates at which these foreign coins were current in American dollars.

Section 1 of the 1806 act formally made it the duty of the Secretary of the Treasury to:

> "cause assays of the foreign gold and silver coins made current by this act, to be had at the mint of the United States, at least once in every year, and to make report of the result thereof to Congress".

Volume 2, Statutes at Large, Page 374

The purpose of this duty was stated:

> "for the purpose of enabling them to make such alterations in this act, as may become requisite, from the real standard value of such foreign coins".
>
> *Ibid.*

Congress elaborated further on the specific purpose of annual assays:

> "for the purpose of enabling Congress to make such coins current, if they shall deem the same to be proper, at their real standard of value."
>
> *Ibid.*

Foreign coins of silver and gold had a "real standard of value" even in the United States. This was determined according to their weight and fineness of either precious metal (in proportion to our own silver and gold coins at their specified values).

Again, it matters not where gold or silver are mined; it may matter little where they are minted; what matters most with our legal tender money is that it is made out of precious metals with determinable purity and therefore value.

All gold and silver coin made current as money by American law had not only inherent value, but at their specific weight and purity were made the *real standard of value* within a system of standards for weights and measures.

Section 2 of the 1806 act repealed the first section of the February 9, 1793 act and the operation of the second section of the 1793 was "suspended for, and during the space of, three years from the passage of this act"; thus such foreign gold and silver coins were to remain legal tender in the United States through April 9, 1809.

Section E: 1816, April 29 Act

An **April 29, 1816** act made current the following foreign gold coins, which coins were to "pass current as money within the United States, and be a legal tender for the payment of all debts and demands, at the several and respective rates following, and not otherwise":

> "the gold coins of Great Britain and Portugal, of the present standard, at the rate of one hundred cents for every seventy-seven (sic) grains, or eighty-eight cents and eight-ninths per pennyweight ; the gold coins of France, of their present standard, at the rate of one hundred cents for every twenty-seven grains and a half grains, or eighty-seven and a quarter cents per pennyweight : the gold coins of Spain, at the rate of one hundred cents for every twenty-eight and a half grains, or eighty-four cents per pennyweight".
>
> Volume 3, Statutes at Large, Page 322

The provision for valuing the gold coins of Great Britain and Portugal at 100 cents for every "*seventy*-seven grains" is an obvious misprint in the Statutes at Large, since one American dollar for every "twenty-seven" grains of British and Portuguese gold coins was the standard of 1793 (and continued in 1798 and 1802), 1806, and 1819 (and continued in 1821 & 1823) and

these foreign coins didn't change during this interval. The proof of this is the equivalent rate of "eighty-eight cents and eight-ninths per pennyweight" of standard gold, which cannot equate with one dollar for every 77 grains, but does perfectly with every 27 grains (100 is to 27 as 88.888888 is to 24).

It was not until 1834, after the American gold dollar changed in weight, did the American value of the British and Portuguese gold coins change.

The rates provided for Spanish gold, of 100 cents for every twenty-eight and a half grains, or eighty-four cents per pennyweight, are also not equivalent.

Mint director Samuel Moore writes in his December 27, 1826 report on assays on foreign coin that "it is presumed that, in the original act, 84 21/100 is the rate designated, which is the corresponding value". Volume 5, American State Papers, Page 585

It would appear that two errors were made in reporting one brief act, which shows that, although uncommon, errors do occur in the Statutes at Large.

It must be noted, however, that both the 1821 and 1823 acts which followed the 1816 act repeat the 84 grains-equivalent rate for Spanish gold, either meaning the rate was intentionally set or it was a repeated oversight which no one then caught.

This author knows of no known rationale for purposefully establishing two non-equivalent rates. As the impact of unknowingly setting non-equivalent rates wouldn't necessarily have had an overly-great impact (as Spanish gold "doubloons" were not all that common in American circulation) it is perhaps possible that continued oversight occurred.

The 1816 act also made current the following foreign silver coins and declared them to be legal tender:

> "the crowns of France, at the rate of one hundred and seventeen cents and six-tenths per ounce, or one hundred and ten cents for each crown weighing eighteen pennyweights and seventeen grains ; the five-franc pieces at the rate of one hundred and sixteen cents per ounce, or ninety-three cents and three mills for each five-franc piece, weighing sixteen pennyweights and two grains."
>
> Volume 3, Statutes at Large, Page 322

The 1816 act lists value in both the number of grains per 100 cents and the number of cents per pennyweight (or per ounce). Providing two identical-value standards allows for the most useful to be used in a given situation. Both methods, however, signify monetary value being determined again solely according to weight and fineness of silver and gold.

In the 1826 foreign coinage report, mint director Moore admits of valuation by weight and fineness, stating that:

> "The proportion of fine metal and alloy in the various foreign coins examined, and the actual quantity composing each specific coin, are derived from the average of repeated assays made for this occasion…The actual value of the several gold and silver coins, according to the standard and denomination of the coins of the United States, has been deduced from the fine gold or fine silver contained therein, respectively, at the rate of 247.5 grains of fine gold to the eagle of ten dollars, and 371 ¼ grains of fine silver to the dollar."

Volume 5, American State Papers, Pages 585 and 586

Deducing the American value of foreign coins is a simple determination of the amount of "fine gold or fine silver" contained in the sampled foreign coins and then rating them in just proportion to the American gold or silver coins at their specified fineness.

In 1793, French and Spanish gold had been rated at 100 American cents for every 27.4 grains of their gold coins. The 1816 act now provides a new rate for the French coins, which was changed slightly to 100 cents for every 27.5 grains (or 87.25 cents per pennyweight), while the Spanish rate became 100 cents for every 28.5 grains (or 84 [.21] cents per pennyweight).

The ease by which the equivalency rates established in 1793 were changed in 1816 should not be lost on the modern reader.

Periodic investigations to properly determine American value of foreign gold and silver coin are not overly different from periodic determinations of the proper proportion for parity between silver and gold (with the former ultimately resting upon the latter [even if the latter determinations were performed separately and less frequently]).

Just as the foreign value (i.e., French five-*franc* coin) of a foreign coin is irrelevant to its American value in terms of dollars, an American gold coin valued in "eagles" (even if they did not have any direct tie to "dollars" and even if they had no fixed parity with silver) could be made current for a value in dollars in much the same manner (one eagle equals $10; or $10.665; or whatever rate which was then current).

In other words, if American gold coin was valued only in "eagles" and silver was valued only in "dollars", *the amount of metal in gold or silver coins or their values would not ever require changing*, even as the monetary relationship between these two metals changed. Only the ratio between eagles and dollars would fluctuate according to the market between these two metals.

The act of June 28, 1834, as one may recall (from Chapter 6, Section B), provided the exchange rate of 94.8 cents per pennyweight for our old gold coins, after authorizing new coin in new weight (and purity) in rounded figures of ten dollars, five dollars, and two dollars and fifty cent valuations.

It was not mandatory that new American coin in new weights be struck in 1834 and thereafter. Congress could have just provided the new dollar rates for gold (94.8 cents per pennyweight) and left it at that (and continued to strike the 270-grain standard gold eagle [worth $10.665]).

Thereafter, whenever it again became necessary, Congress could have simply adjusted this rate of gold eagles for their (temporary) value in dollars.

Of course, if long periods of relative stability transpired between readjustments, it would certainly be of great convenience to have gold coins re-struck at rounded dollar figures as was performed in 1834 (thus the expedient benefit of re-coining at new weights).

The main point to understand in the foreign coinage acts is that the equivalency rate in American dollars of French and Spanish gold coins changed with a simple legislative act, which

did not require any change in the coin itself before those foreign coins could be used as a tender in American trade.

Foreign coins are simply less convenient than current American coins, as current American coins are struck at convenient rounded dollar figures (or its fractions).

Thus would be the difficulty if the American money of account was fixed in only one metal, at least for the coins of the metal not so designated. If American money was only the silver dollar and its proportional fractions, the gold eagle could always be properly valued in the manner noted above.

Since gold is valued much more highly than silver, however, it would typically be used in higher-valued transactions primarily, where the additional effort needed to calculate actual worth would tend to pass less noticeably (which could not be said for foreign silver coins not the Spanish milled dollar [or its equivalents] and its fractions).

In the 1826 foreign coin report, mint director Moore states, regarding a Spanish *pistareen* silver coin which was also assayed alongside the Spanish *dollar* and its parts, that this pistareen coin is "no part of the Spanish dollar", and further, that it actually even differed in fineness with the Spanish dollar. Moore also states:

> "Pistareens have never been made a legal tender by act of Congress; they are current, however, in many parts of the United States at the rates specified in the tables".
>
> *Ibid*., Page 587.

From this admission, one sees that "current" does not fully equate with "legal tender".

Legal tender is a term of legal acceptability for money (requiring passage of formal laws by an appropriately-empowered legislative body), whereas "current" is the rate at which coin passes (in 1834, the $10 rate of 1792 gold eagles became obsolete; they were made current at a new rate, $10.665).

The "current" price need not necessarily be fixed by statute, but may reflect merely the market rate which a coin passes for value between willing parties under no form of compulsion.

Thus we find that an odd-fineness foreign silver coin which was never made a tender by an act of our Congress was nevertheless readily accepted by merchants in payments at its equivalent weight of fine silver. This, of course, is the benefit of intrinsic value (and voluntary exchange).

The "tables" to which director Moore refers were the tables of listings within the report which reported on common coins of foreign countries found in American circulation. With regard to silver coins, the tables reported Average Weight, Fine Silver in 12 ounces, Alloy in 12 ounces, Fine Silver in Each Piece of Average Weight, Alloy in Each Piece of Average Weight, Current Value by Tale, Actual Value per Ounce, and Actual Value by Tale.

The tables were similar for gold, except the fine gold and alloy were determined therein by carats and the current and actual value was per pennyweight.

That “Current Value by Tale” and “Actual Value by Tale” are both listed shows that “current (legal) value” may be different than “actual (market) value”.

This 1826 report, of course, was investigating and reporting during a period in which gold was being undervalued at law relative to silver and being transported overseas where it was properly valued.

Moore writes that the “fluctuating premium on gold coins in our principal seaports…varies in different parts of the union…from one to ten per cent”.

In this case, the current mercantile value was found to be worth more than actual, legal value, from “one to ten per cent”, depending upon the “different parts of the union”.

America’s experience thus shows that when “current” rates fixed by the market and “legal tender” rates fixed by law differed, that legal tender rates were the ones which caused problems (with gold in the 1820’s and early 1830’s being shipped offshore to countries where it was properly valued).

This real-world experience provides compelling evidence that a declaration of legal tender current rates is actually the inferior quality between the two (market rates vs. legal rates). This is because an improperly-set legal tender rate leads to circulation of money of only one metal, as the other is shipped elsewhere to where it is properly valued.

Thus, if law sets the value of two precious metals in fixed relation to one another and happens to set it at the wrong rate, an inevitable chain of events begins which lead to the transport of the under-valued metal overseas, leaving in circulation only the over-valued metal (it should be noted that attempts to forbid the exportation of the under-valued metal inevitably fail miserably).

When law sets the value of two precious metals in fixed relation to one another at a proper rate, law merely acknowledges the market rate and adds little to it (other than a clear statement of the rate).

At best, legal tender declarations of two metals (gold and silver) in the same money of account (dollars) offer the (temporary) benefit of having two metals using only one money of account (one best-suited for small-to-moderate purchases and the other for larger transactions).

At worst, legal tender declarations of two metals in the same money of account drive one of the metals out of circulation.

Thus, relative stability between gold and silver is therefore of paramount concern when two metals are both made a legal tender in only one money of account.

As Robert Morris stated in his January 15, 1782 Superintendent of Finance report to the Confederation Congress, “the scale by which every thing is to be measured, ought to be as fixed as the nature of things will permit” and “[s]ince, therefore, a money standard affixed to both the precious metals will not give this certain scale, it is better to make use of one only.”

The very thing most conducive to monetary stability is the use of a *single* metal (of the metal most stable).

The introduction of the second metal as money introduces the very seeds of monetary instability which in turn inevitably leads back to a de facto money standard of a single metal (of the metal with less stability).

The very action of using two precious metals in a single money of account introduces a false standard which helps tear it apart.

The inherent contradiction that two things must remain stable which by their nature are different, will inevitably lead to driving one of the metals out of circulation (and back to Morris' single metal standard by default).

However, the play is not only between gold and silver, but any "thing" used as money, including paper notes.

Though legal tender notes were not issued in the United States until the Civil War era, private State banks issued (non-tender) paper notes since our independence which nevertheless circulated as a money substitute, and thus also helped drive up prices. Our first and second national banks (1791-1811 and 1816-1836) also issued (non-tender) paper notes which also circulated as a money substitute.

While paper notes not declared a tender were invariably discounted to their specie-value when that was true condition, their actual values in gold or silver were not always precisely known (certainly true of less experienced traders).

Wild monetary swings induced by paper money substitutes invariably helped lead to price instability between gold and silver which came to a head by 1834.

Section F: 1819, March 3 Act

The act of March 3, 1819 re-stated the same rates as provided in the 1816 act, though with the rate for British and Portuguese gold coins corrected to twenty-seven grains (oddly, the eighty-four cents per pennyweight for Spanish gold was not corrected [to 84.21]).

The coins delineated were to remain legal tender until the "first day of November next" and from and after that day the "foreign gold coins shall cease to be a tender within the United States, for the payment of debts or demands". Volume 3, Statutes at Large, Page 525

Section 2 continued the foreign silver coins of the 1816 Act "two years from and after the twenty-ninth day of April next, and no longer. *Ibid*.

Section G: 1821, March 3 and 1823, March 3 Acts

A March 3, 1821 act (3 Stat. 645) "continued in force for a further term of two years, from and after the twenty-ninth day of April next" as relates to French silver coins, the act of April 20, 1816.

An act of March 3, 1823 (3 Stat. 777 @ 778, Chapter 50) continued in force "for a further term of four years, from and after the fourth day of March next", again for the French silver coins.

Section H: 1823, March 3 Act, Chapter 53

Another act of March 3, 1823 (3 Stat. 779, Chapter 53) continued the gold coins of Great Britain, Portugal, France and Spain, valued at their earlier standards, but now only for being "receivable" for "public lands", rather as legal tender for all debts.

Very little foreign gold coin came in to the treasury from such use, for the disparity between silver and gold at 1:15 ratios was already well developed (and gold of all descriptions was finding its way to Europe, rather than circulating in the U.S.).

Section I: 1834, June 25 Act

An act of **June 25, 1834** provided that the following:

> "silver coins shall be of the legal value, and shall pass current as money within the United States, by tale, for the payment of all debts and demands, at the rate of one hundred cents the dollar, that is to say, the dollars of Mexico, Peru, Chili, and Central America, of not less weight than four hundred fifteen grains each, and those re-stamped in Brazil of the like weight, of not less fineness than ten ounces fifteen pennyweights of pure silver, in the troy pound of twelve ounces of standard silver : and the five franc pieces of France, when of not less fineness than ten ounces and sixteen pennyweights in twelve ounces troy weight of standard silver, and weighing not less than three hundred and eighty-four grains each at the rate of ninety-three cents each."
>
> Volume 4, Statutes at Large, Page 681

That the foreign silver coins Mexico, Peru, Chili, Central America, and Brazil (of not less weight than four hundred fifteen grains and of specified fineness) would pass by tale at 100 cents to the dollar, being "of the legal value" and passing "current as money…for the payment of all debts and demands" shows that these coins were every bit as good as American money for all payments.

Since the American dollar was modeled after the same Spanish milled dollar as were the silver coins of Mexico, Peru, Chili, Central American and Brazil, all these coins were in the same denomination as our dollar, all equally convenient.

That the five-franc coins of France of given weight and purity were to pass at 93 cents each shows that although these coins were not as convenient, due to their worth at an odd denomination, they were yet fully equivalent to 93 cents, for which their weight and fineness accounted.

Section J: 1834, June 28 Act (Chapter 96)

Section 1 of the act of **June 28, 1834** (Chapter 96 of the Statutes), provided the following:

> *"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That, from and after the thirty-first day of July next, the following gold coins shall pass as current as money within the United States, and be receivable in all payments, by weight, for the payment of all debts and demands, at the rates following, that is to say : the gold coins of Great Britain, Portugal, and Brazil, of not less than twenty-two carats fine, at the rate of ninety-four cents and eight-tenths of a cent per pennyweight ; the gold coins of France nine-tenths fine, at the rate of ninety-three cents and one-tenth of a cent per pennyweight ; and the gold coins of Spain, Mexico, and Colombia, of the fineness of twenty carats three grains and seven-sixteenths of a grain, at the rate of eighty-nine cents and nine-tenths of a cent per pennyweight."
>
> Volume 4, Statutes at Large, Page 700

This act followed the act of June 28, 1834 (Chapter 95, Statutes at Large) which had re-valued American gold coins as discussed earlier herein in Chapter 6, Section B. Since American gold coins were re-valued, so too must the foreign gold coins be again made current in rates equivalent with the new America coins.

This foreign coinage act of Congress specified that the foreign gold coins therein enumerated were to "pass as current as money within the United States, and be receivable in all payments, by weight, for the payment of all debts and demands, at the rates following".

Although the coins were to pass "as current as money", they were specified to be "receivable…by weight" for "payment of all debts and demands", rather than being again specifically delineated a legal tender.

By operation of the March 3, 1819 act, foreign gold coins were to remain legal tender only until the "first day of November next", or November 1, 1819. The act of March 3, 1823 (Chapter 53 in the Statutes) re-instituted an American use for foreign gold coins, but now being only receivable for payments on only public lands. The 1834 acts thus restored foreign gold and silver coin to be current as money "for the payment of all debts and demands".

Under the 1834 act, one sees that the gold coins of Great Britain, Portugal and Brazil were being rated at 94.8 cents per pennyweight (the same as old U.S. gold coins), as long as they were not less than "twenty-two carats fine". This 22-carat gold—.916667 fine—of course, was the same fineness of American gold as established in 1792. This act is one of few that ever mention gold fineness in carats.

As detailed above, the British, Portuguese, and Brazilian gold was 22-carat, or .916667 fineness in decimal format. Section 1 of the 1834 act further detailed that the "gold coins of France *nine-tenths fine*" were valued at the rate of 93.1 cents per pennyweight.

Although the United States adopted the British purity of gold at .916667 fine in 1792 (and adopted their own in 1834 at .899225 fine), the United States later adopted the (newer) French standard of .900 fine in 1837 (recall that in 1816, the American rate for French coins changed, due to the French change in fineness).

Section K: 1843, March 3 Act

The act of March 3, 1843 differed from the 1834 foreign coinage act; allowing greater impurity of the foreign coin, while then valuing the coins slightly lower, stating:

> "That from and after the passage of this act, the following foreign gold coins shall pass current as money within the United States, and be receivable, by weight, for the payment of all debts and demands, at the rates following, that is to say : the gold coins of Great Britain, of not less than nine hundred and fifteen and a half thousandths in fineness, at ninety-four cents and six-tenths of a cent per pennyweight ; and the gold coins of France, of not less than eight hundred and ninety-nine thousands in fineness, at ninety-two cents and nine-tenths of a cent per pennyweight."
>
> Volume 5, Statutes at Large, Page 607

Whereas British gold of 1834 was specified at the rate of 94.8 cents per pennyweight of standard gold not less than .916667 fine, in 1843, the British gold was valued at 94.6 cents per pennyweight of standard gold not less than .9155 fine.

French gold valued in 1834 at 93.1 cents per pennyweight of standard gold not less fine than .900, in 1843 was valued at 92.9 cents per pennyweight of standard gold not less than .899 fine.

Section 2 dealt with silver coinage, stating:

> "That from and after the passage of this act, the following foreign silver coins shall pass current as money within the United States, and be receivable by tale, for the payment of all debts and demands, at the rates following, that is to say : the Spanish pillar dollars, and the dollars of Mexico, Peru, and Bolivia, of not less than eight hundred and ninety-seven thousandths in fineness, and four hundred and fifteen grains in weight, at one hundred cents each ; and the five franc pieces of France, of not less than nine hundred thousandths in fineness, and three hundred and eighty-four grains in weight, at ninety-three cents each."
>
> *Ibid*.

Gold coins were made to pass "current as money" by weight, as also French silver coins. The Spanish, Mexican, Peruvian and Bolivian dollars (of sufficient weight and fineness) were to pass current as money and be "receivable by tale".

Since the American silver dollar was modeled after the Spanish milled dollar, they were all equivalents. Thus, the Spanish, Mexican, Peruvian and Bolivian silver dollars, since they were of the same value as the American dollar, could also pass at its value by count (which was more convenient, of course). As shown previously, foreign gold coins were not in such convenient dollar increments, and calculation was thus always necessary in their use.

The 1843 act, like the acts in 1823 and 1834, provided no specific timeline on how long the various coins "shall pass current as money…and be receivable…for the payment of all debts and demands". Unlike the foreign coinage acts of Congress prior to 1823, none of these later acts specifically denominated the coins "legal tender", but were only "receivable" and "current as money".

This fact shows that legal tender status was used under greater caution dealing with foreign coin, with explicit deadlines established, while being made receivable and current as money was open-ended.

Section L: 1857, February 21 Act

The 1857 foreign coinage act formally ended the reign of any foreign coins being current as legal tender money in the United States, with Section 3 repealing "all former acts authorizing the currency of foreign gold or silver coins, and declaring the same a legal tender in payment for debts". Volume 11, Statutes at Large, Page 163

Thus, not only were the legal tender qualities repealed, but also using the foreign gold and silver coins as a "currency", being used current as money.

Section 1 stated that the parts of Spanish pillar dollars and Mexican dollars shall be receivable at the treasury and its several offices, and at the post-offices and land-offices, at the rates which followed.

Section 2 then prescribed that the said small silver coins "shall not again be paid out, or put into circulation", but "recoined at the mint".

The 1857 act also terminated further coinage of the domestic half-cent, in section 4, and also re-specified the cent coin being of 88% copper and 12% nickel.

While the foregoing foreign coinage acts directly established the American rates foreign coins, numerous acts regarding the importation of foreign goods also dealt indirectly with foreign coins, by detailing the rates for which they would be accepted at the customs houses (even if the rates did not inherently extend beyond the customs houses).

Section M: 1789, July 31 Act

As detailed earlier, the first act in the First Session of the First Congress was for prescribing oaths. The second act imposed customs duties on various goods imported into the United States. The third act laid a duty on the tonnage capacity of ships "entered in the United States". The fourth established the Department of Foreign Affairs (renamed Department of State on September 15th of the same year).

The fifth act enacted by the First Congress, passed on **July 31, 1789**, was a more-complete customs act, which established distinct revenue districts, imposed requirements on customs officers, imposed obligations on ships' officers, etc. **Section 18** also fixed the value of foreign moneys of account for computations at the custom-houses, reading:

> *"And be it further enacted,* That all foreign coins and currencies shall be estimated according to the following rates: each pound sterling of Great Britain, at four dollars forty-four cents; each livre tournois of France, at eighteen cents and a half; each florin or guilder of the United Netherlands, at thirty-nine cents; each mark banco of Hamburgh, at thirty-three cents and one third; each rix dollar

of Denmark, at one hundred cents; each rix dollar of Sweden, at one hundred cents; each ruble of Russia, at one hundred cents; each real of plate of Spain, at ten cents; each milree of Portugal, at one dollar and twenty-four cents; each pound sterling of Ireland, at four dollars ten cents; each tale of China, at one dollar forty-eight cents; each pagoda of India, at one dollar ninety-four cents; each rupee of Bengal, at fifty-five cents and a half; and all other denominations of money in value as near as may be to the said rates; and the invoices of all importations shall be made out in the currency of the place or country from whence the importation shall be made, and not otherwise."

Volume 1, Statutes at Large, Page 29 @ Page 41

While these rates at the custom-house for foreign "coins and currencies" did not establish formal American rates for use of foreign coin throughout the whole economy as did the before-mentioned foreign coinage acts, these acts nevertheless sought to find the American value of these foreign coins and currencies, for determining the value of imported goods so that the appropriate amount of customs duties could then be levied and collected (which were often "ad valorem", or based upon value [while many customs were based upon given weight or quantity of the goods imported]).

Section N: 1790, August 4 Act

Section 40 of the August 4, 1790 Act (1 Stat. 145 @ 167 & 168) enacted customs and duties on ships' tonnage in much the same manner, as did many other acts (see Appendix F), which are without further interest to us.

Section O: 1873, March 3 Act

Section 1 of the act of March 3, 1873 to "establish the Custom-house Value of the Sovereign or Pound sterling of Great Britain, and to fix the Par of Exchange") declared:

"That the value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value ; and the values of the standard coins in circulation of the various nations of the world shall be estimated annually by the director of the mint, and be proclaimed on the first day of January by the Secretary of the Treasury".

Volume 17, Statutes at Large, Page 602

Though by the time of this 1873 act, no foreign coins were any longer a legal tender in the United States, it was still proper that equivalency rates be established for determining customs.

This passage clearly details the method used to determine the American value for foreign coins for proper valuations at the custom-house, which was the relation of the foreign coin's "pure metal" to our standard value coin. Again, the American value of foreign money was determined simply by a mathematical formula of weight and purity of silver or gold in the foreign coin as it related to ours.

Chapter 9: Acts Respecting Mints

Section A: 1791, March 3 Resolution

The Resolution of **March 3, 1791** (1 Stat. 225) resolved "that a mint shall be established under such regulations as shall be directed by law" and allowed the President to engage artists and procure "such apparatus as shall be requisite".

The resolution allowed preliminary work to begin readying things for a mint once further regulations were later enacted (as ultimately provided by the April 2, 1792 act [covered earlier herein under Chapter 6, Section A]).

Section B: 1794, March 3 Act

The **March 3, 1794** act (1 Stat. 341) lowered the bonding requirements for the assayer of the mint to one thousand dollars, the chief coiner for five thousand dollars. Under the 1792 statute, both officials needed a $10,000 bond. Neither official was originally able to obtain such a large bond. As a result, no coins were struck until late 1794, when the new bond levels were in place by this act and required bonds were secured.

That the mint officials were prohibited from performing their necessary duties when they didn't have their required bonds in place shows the importance of bonds. Though the prescribed duties were important and their work output was vital, neither was as important as meeting the requirement of bonding.

Section C: 1795, March 3 Act

The **March 3, 1795** act (1 Stat. 439) appointed a new position within the mint, that of the Melter and Refiner. This new position paid $1,500 per year and required a $6,000 bond.

This 1795 act allowed the treasurer of the mint to retain two cents per ounce of silver bullion deposited which was below the standard of fineness of 1,485/1,664; four cents for every ounce of gold below 11/12^{ths} fineness, and six cents if gold was so far below fineness as requiring additional testing, as compensation to defray the cost of melting and refining low-quality metals.

Section 6 allowed the Treasurer of the mint to reject deposits under 200 ounces for silver and 20 ounces for gold which were below the standards set by law.

Section 7 allowed the officers of the mint to give preference to gold and silver which were at the standard set by law, over lower-quality deposits. Higher quality metals were able to be struck into coin faster than lower quality metals.

Section D: 1800, May 14; 1801; 1803; 1808; 1812; 1818; and 1823 Acts

The **May 14, 1800** act (2 Stat. 86) continued the mint at Philadelphia, until March 4, 1801, as the seat of government moved to the District of Columbia.

The **March 3, 1801** act (2 Stat. 111) followed the suit of the May 14, 1800 Act, allowing the mint to remain in Philadelphia, until March 4, 1803.

In that Philadelphia was now inconvenient for the specified officers who had originally been obliged by the 1792 act to attend the annual testing of coins to verify their fitness to fineness standards (in that these officers were now located at the seat of the government in the District of Columbia), Congress transferred their duties to others in that locale.

The **March 3, 1803** act (2 Stat. 242) maintained the mint at Philadelphia for a period of five additional years, as did the acts of **April 1, 1808** (2 Stat. 481); **December 2, 1812** (2 Stat. 787); **January 14, 1818** (3 Stat. 403); and **March 23, 1823** (3 Stat. 774).

Section E: 1828, May 19 Act

The **May 19, 1828** act (4 Stat. 277) finally continued the mint at Philadelphia "until otherwise provided by law".

Section 2 provided that the "brass troy pound weight" procured in London in 1827 "shall be the standard troy pound of the mint of the United States, conformably to which the coinage thereof shall be regulated".

Section 3 made it the duty of the director of the mint to procure and safely keep a series of standard weights corresponding to the troy pound, from the 100^{th}-part of a grain up to 25 troy pounds.

That the coins struck at the mint "shall be regulated" against the standard weights which were required to be procured and safely kept shows that Congress was then quite serious about maintaining true standards, that the coins struck would be a uniform standard for value.

Section 7 allowed the director of the mint to assay bullion not intended for coinage, and provide certificates indicating the fineness to the owner of the bullion.

Section F: 1835, March 3 Act

The **March 3, 1835** act (4 Stat. 774) established a branch mint at New Orleans for the coinage of gold and silver, and branch mints in Charlotte, North Carolina and Dahlohnega, Georgia for coinage only of gold.

Section G: 1850, May 23 Act

The **May 23, 1850** act (9 Stat. 436) allowed, "when the state of the treasury shall admit thereof", that greater sums of public money be stored at the mints. The effect of this for the mint

was that this would then allow depositors of gold and silver bullion to receive their money promptly, as soon as its value was ascertained, without "discount" and without having to wait for their coin to be actually struck out of their particular deposit of bullion.

The mint and its growing number of branches of the later 1840's and 1850's were holding more government funds than ever before, as they were integral parts of the independent treasury or sub-treasury system.

During this hard-money era, all payments due the government were paid in gold or silver coin or in its treasury notes (payment in bank notes, even those redeemable in specie, were forbidden). All payments paid by government were in gold or silver coin; or, if the recipient specifically allowed, in treasury notes. No government money whatsoever was loaned, invested, or even held in banks.

Section H: 1840, July 4 Act

Democratic President Martin Van Buren ceremoniously signed the act for the "collection, safe keeping, transfer, and disbursement of the public revenue" on July 4, 1840, as a purposeful second declaration of our independence. This independence was one of financial liberty, freedom from banks (and their debased paper currency).

Sadly, the July 4, 1840 act (5 Stat. 385) was repealed August 13, 1841 (5 Stat. 439), after the Whig party (Hamiltonian in thought) came to power in Washington.

Since this act was so short-lived, it will be skipped over to concentrate on its 1846 replacement (which thankfully became fully established). The greatest difference between the two acts was that the first sought to set up a four-year conversion schedule to where *only* gold and silver were to be accepted or paid by the government. In the latter act, however, treasury notes could be paid the government for dues owing it, and treasury notes could be used to pay government expenses, *provided* the recipient specifically agreed to accept them.

Section I: 1846, August 13 Act

Democratic President James K. Polk signed the act (9 Stat. 59) "to provide for a better Organization of the Treasury, and for the Collection, Safe-keeping, Transfer, and Disbursement of the public revenue" on August 13, 1846.

That a political party actually worked — successfully — toward "separation of bank and state" told volumes about it. Early Democrats then properly supported limited government and presented a true alternative for "the little guy" in proper accordance with constitutional principles. If today's Democratic Party was anything like it was in the 1840's, this author would be a Democrat!

Sadly, from such an inspiring early period, the Democratic Party devolved into a "what can big government do for you" attitude as a great portion of the populace have learned to feed at the public trough.

Not to be outdone, of course, modern-day Republicans too often rail against broad-based welfare only to support corporate welfare. Neither major political party since the Civil War offers an alternative to big, statist government doing anything it wants at any time to anyone. If either did, we wouldn't likely be in the mess we are in and discussions offering true alternatives would be on the table. Government has steadily grown no matter which party is (or which individuals are) in political power (it just tragically veers left or right as it proceeds down the steady path toward greater tyranny).

A recital before the **August 13, 1846** act noted that the September 2, 1789 act which established the Treasury Department (I Stat. 65) made it the "duty of the treasurer to receive and keep the moneys of the United States".

Sections one through twenty-four of the 1846 act then sought to carry out that charge explicitly, to the letter.

Section 1 stated that:

> "the rooms…in the new treasury building at the seat of government for the use of the treasurer of the United States…and also the fire-proof vaults and safes erected in said rooms for the keeping of the public moneys in the possession and under the immediate control of said treasurer, and such other apartments as are provided for in this act as places of deposit of the public money, are hereby constituted and declared to be the treasury of the United States." Volume 9, Statutes at Large, Page 59

The keeping of the public money's "in the possession and under the immediate control" of the treasurer brought literal meaning to the public "treasury".

Before this, government funds had been kept in the various State ("pet") banks, and before that, in the second bank of the United States (the 20-year charter of which expired in 1836).

The first bank of the United States had been chartered by Congress February 25, 1791 (1 Stat. 191) on the premise that it would be "very conductive to the successful conducting of the national finances", as worded in the recital to that act.

Section 2 of the 1846 act made the Philadelphia mint and New Orleans branch mint and their vaults and safes "places of deposit and safe-keeping of the public moneys at those points".

The treasurers of the Philadelphia and New Orleans mints were made assistant treasurers under the provisions of the act and were given the "custody and care of all public moneys deposited" therein.

Section 3 specified special rooms, fire-proof vaults and safes in the custom-houses in New York City and Boston be for the use of the assistant treasurers therein also appointed, who were again to have "custody and care" of the public moneys therein deposited.

Section 4 provided for appointing assistant treasurers at Charleston and St. Louis, who were charged with safe-keeping the public moneys in rooms, fire-proof vaults and safes specified therein for these regions.

Section 6 provided that the treasurer of the United States, the treasurer at the mint of the United States, the (acting) treasurers at the various branch mints, all collectors of the customs, all surveyors of the customs also acting as collectors, all assistant treasurers, all receivers of public moneys at the several land offices, all postmasters, and all public officers of whatever character, be and are thereby:

> "required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as allowed by this act, all the public money collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered…to be transferred or paid out".
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> Volume 9, Statutes at Large, Page 60

High-finance it was not, but that was precisely the point.

Such a point is lost on financial experts of today (at least it was lost before 2008, when a "return of capital" became far more important than a "return on capital").

When one deals with bank fiction and paper notes, it is entirely understandable that one cannot afford to have them sitting idly by, for — due to their rapid devaluation — they will be worth less tomorrow.

As the inevitable effects of compound interest operating on mind-boggling sums of money created and lent into circulation inexorably come into play in our increasingly-troubled financial future, this 1840's line-of-thought will likely again someday look quite appealing (but probably not one moment before).

When one deals in honest money with inherent value, one needn't necessarily worry about putting it to work earning interest every nano-second. With currency of honest money, the efforts of all persons producing products or providing services sustains and even increases the value of money which may be safely stored as its worth increases from new productive output and increased capital efficiency.

Section 9 required that all collectors and receivers of public money at the seat of government, as directed by the Secretary of the Treasury or Postmaster-General, to "pay over" from time to time to the treasurer of the United States all public moneys collect by them. The same was required of the collectors in Philadelphia and New Orleans, who were to pay over to the treasurers at the mint and branch mint.

Within New York City, Boston, Charleston and St. Louis, the various collectors of the public monies were also to pay over to the assistant treasurers therein located the public moneys which were in their hands upon proper notice.

Section 16 required that all officers charged with safe-keeping, transfer, and disbursement of public money (except the post-office department [section 10 required separate accounting for money belonging to that department]) to keep accurate entry of all money received, paid, or transferred.

While Section 6 had required the assistant treasurers to keep the money in government safes, without loaning and without depositing the money in banks, **Section 16** went a step further, stating:

"That…if any one of the said officers (charged by this act…with the safe-keeping…of the public moneys) shall convert to his own use…or shall use, by way of investment…or…loan, with or without interest, or shall deposit in any bank…every such act shall be deemed and adjudged to be an embezzlement".

Congress declared it felony embezzlement to place any public funds in any bank!

Probably not one in a million Americans today would ever believe that it was actually a felony for any federal government officer in the latter 1840's and all of the 1850's to place government money in a bank, or to loan out or invest the public money.

Placing public funds in banks and (loaning or) investing public funds were prohibited by law (until repealed by Congress after onset of the Civil War [which was only about slavery, of course!]).

The portion of the 1846 act most pertinent to the discussion of money was found in **Section 18**, which stated, in part:

"That on the first day of January, in the year one thousand eight hundred and forty-seven, and thereafter, all duties, taxes, sales of public lands, debts, and sums of money accruing or becoming due to the United States, and also all sums due for postages or otherwise, to the general post-office department, shall be paid in gold and silver coin only, or in treasury notes issued under the authority of the United States". (9 Stat. 64)

Section 18 required all payments made *to the United States* be paid only in gold and silver coin, or in the government's treasury notes.

Section 19, regarding payments made *by the United States*, declared (with italics added):

"That on the first day of April, one thousand eight hundred and forty-seven, and thereafter, every officer or agent engaged in making disbursements on account of the United States, or of the general post-office, shall make all payments in gold and silver coin, or in treasury notes*, if the creditor agree to receive said notes in payment* ". *Ibid.*

Payments made *by the government* to its creditors were to be paid only in gold and silver coin. However, if any given creditor voluntarily and willingly agreed to accept treasury notes, then and only then, treasury notes could be instead paid out.

Congress, as will be seen, were very serious about carrying into effect sections 18 and 19, stating in **Section 19** that:

"any receiving or disbursing officer, or agent who shall neglect, evade, or violate, the provisions of this and the last preceding section of this act, shall, by the Secretary of the Treasury, be immediately reported to the President of the United States, with the facts of such neglect, evasion, or violation ; and also to Congress, if in session, and if not in session, at the commencement of its session next after the violation takes place." *Ibid.*

Section 20, continued on such refusals, stating (italics added):

"That no exchange of funds shall be made by any disbursing officers…other than an exchange for gold or silver ; and every such disbursing

> officer, when the means for his disbursements are furnished to him in gold and silver, shall make his payments in the money so furnished ; or when those means are furnished to him in drafts, shall cause those drafts to be presented at their place of payment and properly paid according to the law, and shall make his payments in the money so received for the drafts furnished, unless, in either case, he can exchange the means in his hands for gold and silver at par. And it shall be and is hereby made the duty of the head of the proper department immediately to suspend from duty any disbursing officer who shall violate the provisions of this section, and forthwith to report the name of the officer or agent to the President, with the fact of the violation, and all the circumstances accompanying the same, and within the knowledge of the said Secretary, to the end that such officer, or agent, may be promptly removed from office, or restored to his trust and the performance of his duties, as to the President may seem just and proper". *Ibid*., Pages 64 & 65.

Sections 19 and 20 show Congress sought to enforce this act firmly and literally, by immediately suspending any officer while seeking to impose harsh fine and imprisonment through criminal trial.

Section 21 prohibited the government drafts from entering into circulation as a paper currency, declared in part (italics added):

> "That it shall be the duty of the Secretary of the Treasury to issue and publish regulations to enforce the speedy presentation of all government drafts for payment at the place where payable, and to prescribe the time, according to the different distances of the depositaries from the seat of government, within which all drafts upon them, respectively, shall be presented for payment…but, in all these regulations and directions, it *shall be the duty of the Secretary of the Treasury to guard, as far as may be, against those drafts being used or thrown into circulation, as a paper currency, or medium of exchange*." *Ibid*., Page 65

Government drafts were thus used much as internal bills of exchange or modern-day checks, so that the gold and silver themselves needn't always necessarily be transferred between the various depositories — only the net balances — allowing credits and debits to be first resolved internally or locally to the extent possible. In this way, dealing with gold and silver didn't necessarily involve physically taking them out of one depository only to put them in another and later return to the former.

In Section 21, it was the specific duty of the Secretary of the Treasury to guard against the government drafts from being "thrown into circulation" as a "paper currency". As thus noted, currency was here specifically referred to a "paper currency".

Many other laws of the era only use the term "currency", however, without any qualifier. As such, and given understanding today of currency being a paper currency (and even understood to exclude coin as its alternative of [as in "coin and currency", being separate]), it is important to understand that the "legal currency" then was only gold and silver coin.

By an **April 30, 1816** resolution, Congress resolved that "all duties, taxes, debts, or sums of money, accruing or becoming payable to the United States" could be (italics added):

> "collected and paid in the legal currency of the United States, or treasury notes, or notes of the bank of the United States as by law provided and declared, *or in notes of banks which are payable and paid on demand in the said legal currency of the United States*".
>
> Volume 3, Statutes at Large, Page 343

In this 1816 resolution, obligations due the government could be paid in the legal currency of the United States, "or" treasury notes "or" notes of the bank of the United States "or" notes of banks which are payable and paid on demand in specie. These other forms of payment are all offered as alternatives to the "legal currency of the United States", which is only gold and silver coin.

That treasury notes and bank notes were used in the resolution as an alternative to "legal currency" helps show their difference. That bank notes which were "payable and paid on demand *in the said legal currency of the United States*" especially helps show this point true, as bank notes were payable in gold or silver coin.

For example, a quick look to Section 17 of the April 10, 1816 act (3 Stat. 266) which established the (second) bank of the United States to which the 1816 resolution first referred, stated that the bank "shall not at any time suspend or refuse payment in gold and silver, of any of its notes, bills or obligations".

Section 17 of the 1816 banking act thus made it obligatory that the national bank notes always be redeemable in "gold and silver".

Further, in Section 14 of the same act, the "notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States".

In recap, by Section 17 of the 1816 banking act, the bank "shall not…suspend or refuse payment in gold or silver…on its notes". By Section 14 of the same act, the notes payable on demand (in gold or silver) "shall be receivable in all payments to the United States". By the 1816 resolution, obligations owed to government could be paid also "in notes of banks which are payable and paid on demand in the said legal currency of the United States".

Because gold and silver were required to be paid on bank notes in one act, and the bank notes were acknowledged as payable and paid on demand in the "said legal currency of the United States" in a resolution, shows that gold and silver coin were the only said legal currency of the United States (at least as of that date).

The initial July 4, 1840 independent treasury act supports the same conclusion. Section 19 of that act instituted a four-year conversion from those things originally made receivable for government payments in the 1816 resolution, to payments in the first year under the new 1840 act to be paid in one-quarter amount "in the legal currency of the United States".

Each year thereafter, another quarter of each payment of obligations due the government were to be paid only in the "legal currency of the United States", until "from and after the thirtieth day of June" of the fourth year (1843), when the "remaining fourth part of the said duties, taxes, sales of public lands, debts, and sums of money, shall be also collected in the legal currency of the United States".

Section 19 of the **July 4, 1840** act then further stated, for future payments beginning with the last period of this four-year timetable, that:

> "from and after the last-mentioned day, all sums accruing, or becoming payable to the United States, for duties, taxes, sales of public lands, or other debts, and also all sums for postages, or otherwise, to the General Post Office Department, shall be paid in gold and silver only".
>
> Volume 3, Statutes at Large, Page 390

When the fourth timetable was to first become operational (June 30, 1843), the act worded it that the "remaining fourth part of the said duties…shall be *also* collected in the legal currency of the United States".

In the period following "from and after the last-mentioned day", that all sums becoming payable to the United States "shall be paid in gold and silver only" shows "legal currency of the United States" and "gold and silver (coin)" to be one and in the same.

The "legal currency" of the United States was (and yet is) only gold and silver (coin).

Section J: 1852, July 3 Act

The act of July 3, 1852 established a branch mint "in California" (San Francisco), which branch mint, in section 7 was made "the place of deposit" for the public moneys. The new mint was specifically subjected to the pertinent provisions provided under the act of August 6, 1846 (providing for the sub-treasury system). Volume 10, Statutes at Large, Page 11

Section 8 allowed the mint to refine, assay and cast gold into bars or ingots and indicate their value and fineness.

Section K: 1862, April 21 Act

The act of April 21, 1862 established a branch mint at Denver for the coinage of gold, which branch mint, in section 5 was again made "the place of deposit for the public moneys", again subject to the provisions of the act of August 6, 1846. Volume 12, Statutes at Large, Page 382

The coinage of silver at the Denver mint was allowed coinage in a February 20, 1895 act. Volume 28, Statutes at Large, Page 673

Section L: 1863, March 3 and 1864, July 4 Acts

The act of March 3, 1863 (12 Stat. 770) established a branch mint in Carson City, in the Territory of Nevada. This branch mint, in section 5 was likewise made "the place of deposit for the public moneys", again subject to the act of August 6, 1846.

The act of July 4, 1864 (13 Stat. 382) established a branch mint in The Dalles, Oregon. This branch mint, in section 5 was also made "the place of deposit for the public moneys", again subject to the act of August 6, 1846.

Section M: 1871, April 20 and **1875, March 3 Acts**

The act of April 20, 1871 (17 Stat. 19) transferred the "building known as the United States branch mint at Dahlonega, and the ten acres of land connected therewith" to the North Georgia Agricultural College, and the Georgia branch mint was closed.

The act of March 3, 1875 (18 Stat. 518) transferred the "mint-building, material, and lot" of The Dalles mint to the State of Oregon, for the use of "some educational or charitable institution" and the branch mint closed.

Section N: 1874, January 29 Act

The act of January 29, 1874 (18 Stat. 6) provided that "it shall be lawful for coinage to be executed at the mints of the United States for any foreign country applying for the same, according to the legally prescribed standards and devices of such country".

The charges for the same "shall be equal to the expenses thereof, including labor, materials and use of machinery".

A proviso was included, that "the manufacture of such coin shall not interfere with the required coinage of the United States".

Section O: 1882, May 26 and **1901, March 3 Acts**

The act of May 26, 1882 (22 Stat. 97) provided that the superintendents of the coinage mints, and of the United States assay office in New York, were authorized to "*receive* United States gold coin from any holder thereof in sums not less than five thousand dollars, and *to pay and deliver* in exchange therefor gold bars in value equaling such coin so received" (italics added).

The 1882 act was amended March 3, 1901 (31 Stat. 1446 @ 1447), allowing the Secretary of the Treasury to make such exchanges "without charge, or may impose a charge therefore".

To "pay and deliver" will be a concept later explored (and, to a less extent, as worded in the August 6, 1846 act to "pay over").

Section P: 1891, March 3 Act

The act of March 3, 1891 (26 Stat. 838) authorized the Secretary of the Treasury to purchase or otherwise procure a new site for "for the use and accommodation of the United States Mint" in Philadelphia, while disposing of the present mint building at private or public sale.

No money appropriated was made available not only until a "valid title to the site" shall be "vested in the United States", but also:

> "not until the State of Pennsylvania shall have ceded to the United States exclusive jurisdiction of the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein". *Ibid.*

The "exclusive jurisdiction" of the United States, is, of course, the exclusive legislative jurisdiction of the United States as detailed in Article I, Section 8, Clause 17 of the U.S. Constitution for the seat of the government (the District of Columbia) and for the exercise of like authority over all places purchased with the consent of the legislature of the State in which the purchased property shall be found, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings (the mint being a "needful building").

The United States mint building authorized in this 1891 act, except for administrating criminal laws and serving civil processes, was to remain in exclusive legislative jurisdiction of the United States as long as "the United States shall be or remain the owner", unless otherwise changed by future law.

The exclusive legislative jurisdiction will be covered in far greater detail in the following chapter and thereafter.

Section Q: 1920, May 29 Act

The act of May 29, 1920 (41 Stat. 631 @ 655) repealed the remaining remnants of the independent treasury/sub-treasury system still operating after being effectively gutted by enactment of the national banking acts of 1862 (also covered more fully in the next chapter).

The Federal Reserve banks thereafter (after the effective date of the 1920 act — July 1, 1921) were to act as "depositories" or "fiscal agents of the United States".

Chapter 10: Acts Regarding Notes

During the August 16, 1787 discussion on the power of emitting bills of credit at the Constitutional Convention, recall from Chapter 4 herein that Mr. Gouverneur Morris made the original motion to strike out "and emit bills on the credit of the United States" from the proposed draft of the Constitution.

Two notations in James Madison's notes of the convention provide evidence that Congress are yet empowered in some manner to issue notes.

The first notation Madison made originated from Gouverneur Morris himself (the same man who made the motion to delete the proposed power to emit bills of credit), stating that (italics in original):

> "Striking out the words will leave room still for notes of a *responsible* minister, which will do all the good without the mischief."
>
> Volume 5, Elliott's Debates, Page 434

Also, in a footnote following the vote where Virginia also voted to strike the proposed power of Congress to emit bills of credit, James Madison notes (italics again in original) that:

> "This vote in the affirmative by Virginia was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the government from the use of public notes, as far as they could be safe and proper; and would only cut off the pretext for a *paper currency*, and particularly for making the bills a *tender*, either for public or private debts."
>
> *Ibid*., Page 435

James Madison and Gouveneur Morris both seemed to believe that striking out "and emit bills on the credit of the United States" would yet leave the United States the power to issue some type of paper notes. Note that during James Madison's presidency were the first treasury notes issued.

Unfortunately, Madison does not indicate to his readers the exact manner by which "public notes" may be issued, and how exactly they would differ from a paper currency (other than not being made a tender for payment of debts).

Section A: 1790, August 4 Act

The first act enacted for the borrowing of money ("making provision for the payment of the debt of the United States") under the Constitution was the act of August 4, 1790 (1 Stat. 138). This act issued certificates of stock as evidence of the money borrowed.

Section 2 allowed for the borrowing of $12 million for paying past-due foreign debts.

Section 3 provided "that a loan to the full amount of the domestic debt be, and the same is hereby proposed". Books "for receiving subscriptions" to the domestic loan were "opened at the treasury of the United States", for "sums which shall be subscribed thereto".

Section 4 detailed that the persons who chose to lend money to the government, called therein "subscribers", were to be "entitled to" an interest-bearing "certificate" (referred to thereafter and throughout the act as "stock"). For repayments of principal, the rate of interest was six percent; for past-due interest payments, new stock certificates paying three percent were issued.

Existing creditors preferring their original contract terms were allowed by Section 9 to continue forward under those terms, or they were entitled to swap their existing securities for new.

Section 20 provided the "monies arising under the revenue laws" to the extent necessary for payment of interest would be thusly applied ("subject nevertheless to such reservations and priorities as may be requisite to satisfy the appropriations heretofore made").

With the source specified for payments of interest (revenue laws [primarily import duties]), repayment of principal was detailed in **Section 22** of the **August 4, 1790** act, which provided that:

> "the proceeds of the sales which shall be made of lands in the western territory, now belonging, or that may hereafter belong to the United States, shall be, and are hereby appropriated towards sinking or discharging the debts, for the payment whereof the United States now are, or by virtue of this act may be holden, and shall be applied solely to that use until the said debts shall be fully satisfied".
>
> Volume 1, Statutes at Large, Page 144

These western lands were those lands ceded to the United States in trust by those of the original 13 states which had such western lands.

Selling the western lands into private hands had two important consequences; first, that the proceeds of the sales would be used for reduction of the war debts. The second was that through sales of public lands, these lands would then become private, allowing settling of formerly vacant lands. Once there were a sufficient number of settlers now living on their own private lands, the territories could then form into new States and enter the Union "on an equal footing with the original States, in all respects whatever", as worded in the Northwest Ordinance of July 13, 1787. Volume 32, Journals of the Continental Congress, Page 334 @ 342

The August 4, 1790 act was the first of many acts which would fully honor the disposal of these unappropriated western lands for debt reduction (and settling), it being the fiduciary duty of the United States to divest themselves of the public lands ceded to them in trust for their disposal for common benefit.

Section B: 1812, June 30 Act

Between 1790 and well into the 1860's, Congress enacted many and numerous acts for the borrowing of money which issued stock certificates as the government security evidencing their debt.

Following the June 18, 1812 declaration of war against Great Britain (2 Stat. 755), Congress issued their first treasury notes as evidences of debt on money borrowed, authorizing up to $5,000,000 worth of treasury notes, in an act of June 30, 1812 (2 Stat. 766).

Section 2 detailed that the treasury notes would be reimbursed by the United States "one year…after the day on which the same shall have been issued". From the date of issue, they were to bear interest at "five and two-fifths per centum a year".

Bearing interest, the notes were thus essentially equivalent to a government bond, rather than a form of currency.

Section 4 authorized the Secretary of the Treasury to issue treasury notes "in payment of supplies, or debts due by the United States, to such public creditors, or other persons, as may choose to receive such notes in payment, as aforesaid, at par" (italics added) and the Secretary was further authorized "to borrow…on the credit of such notes".

Section 5 detailed that the notes were "transferable by delivery and assignment endorsed thereon by the person to whose order the same shall, on the face thereof, have been made payable" (similar to cashing a modern-day check — the person to whom the check is made out to on the front endorses the back of the check when depositing or cashing).

Section 6 provided that the treasury notes "shall be every where received in payment of all duties and taxes laid by the authority of the United States, and of all public lands sold by the said authority".

The treasury notes were "receivable" for payments due the government, and creditors of the government who chose to receive them in payment for supplies and services were paid in them, but treasury notes were not made a tender for any debts.

Section C: 1815, February 24 Act

Congress issued the first treasury notes which were "payable to bearer" in a February 24, 1815 act (3 Stat. 213). The bearer notes in denominations of less than one hundred dollars were "transferable by delivery alone" but which "shall bear no interest".

Thus, unlike treasury notes payable to order and transferable by endorsement and delivery (or dealing with stocks, where transfer had to occur on the government's books which were kept for keeping track of who owned which stock certificate), the bearer notes could be passed freely between any debtor and creditor willing to pay and accept them, respectively.

Treasury notes issued under the act in denominations of one hundred dollars and upwards were again made payable to order and were transferable by delivery and assignment, and bore interest at five and two-fifths percent per annum. Congress allowed the Secretary of the Treasury, provided the President of the United States agreed, to issue the $100 and larger notes in bearer form without interest, however.

Any of the "bearer" treasury notes issued by this 1815 act could be presented at any time, in sums not less than $100, to the treasury or any commissioner of loans and receive instead certificates of funded stock bearing interest of seven percent per year. The same could be done

with the interest-bearing notes (which paid 5.4% interest), but the stock certificates would bear six percent annually (interest paid quarterly). The principal of the stock was payable anytime after December 31, 1824.

Section 9 allowed the holder of any treasury notes issued, “to convert the same into certificates of funded debt”, upon the same (shorter) terms as the other notes, and bearing an interest rate of 5.4%.

Section D: 1817, February 24 Act

Several years after successful conclusion of the War of 1812, Congress enacted the March 3, 1817 act (3 Stat. 377) which repealed all the acts of Congress which authorized the President of the United States to borrow money on the credit of the United States and which had caused certificates of funded stock to be issued (though the repeal of the acts did not affect the validity of existing securities yet outstanding which were issued under authority of those acts).

Section 2 of the act repealed the acts of Congress which authorized the President to cause treasury notes to be prepared, signed and issued.

Section 4 ordered the cancelling and destruction of all treasury notes which were then, or which shall thereafter become property of the United States (i.e., after they were redeemed).

The first period involving the issuance of treasury notes was thus much of a war-time expedient to aid borrowing money to fund the war effort.

Section E: 1837, October 12 Act

Following the demise of the second national bank of the United States after the original 20-year charter failed renewal attempts, Congress authorized the first issuance of new treasury notes since 1815, in the act of October 12, 1837 (5 Stat. 201).

The treasury notes were again made transferable by delivery and assignment endorsed on the back, by the person to whose order the same was made on the face. They were to earn interest not over six percent annually.

The notes were to be received in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by the United States, and of all debts to the United States “of any character whatsoever”.

When any note returned to the United States for payment, they were cancelled.

Section F: 1838, May 31 Resolution

Congress resolved on May 31, 1838 that:

> “it shall not be lawful for the Secretary of the Treasury to make or to continue in force, any general order, which shall create any difference between the different branches of revenue, as to the money or medium of payment, in which debts or dues, accruing to the United States, may be paid.” (5 Stat. 310)

This resolution nullified the Secretary of the Treasury's "Specie Circular" which had been issued under the auspices of President Andrew Jackson two years earlier, which circulated an understanding that only specie (gold and silver) would be accepted in payment of public lands.

Section G: 1861, July 17 Act

Beginning in 1837 and continuing periodically thereafter, Congress issued new treasury notes in similar fashion to the 1837 act, without any new twists.

With the 1860's came the Civil War. It was during this era that the United States were transformed from a plural concept (the United States *are*…) to a singular (the United States *is*…). Therein and thereafter, the concept of limited government became but an increasingly-ancient relic.

After outbreak of aggression at Fort Sumter in South Carolina on April 12, 1861, Congress enacted an act on July 17, 1861 authorizing the borrowing of a sum of money not exceeding $250,000,000 (12 Stat. 259).

Various government securities were therein offered, including coupon bonds transferable by delivery; registered bonds transferable on the books of the Treasury after delivery of the certificate; or various bearer treasury notes, all transferrable by delivery. The bonds were irredeemable for 20 years, paying seven percent per year.

The first of the three types of treasury notes offered were in denominations of $50 and up, payable three years after issuance, and earned 7.3% interest per year, payable semi-annually.

The second type of treasury notes were issued in denominations less than $50 (but at least $10), bore interest at 3.65%, and were payable in one year.

The third type of treasury notes were payable on demand and bore no interest. The total amount of demand treasury notes authorized to be issued under the act "shall not exceed fifty millions of dollars", by section 1.

All three types of treasury notes issued under this 1861 act were transferable simply "by delivery". Curiously, there was no mention in the act of the notes being made receivable for any government dues.

Section H: 1861, August 5 Act

On August 5, 1861 (12 Stat. 313), Congress tragically suspended the August 6, 1846 independent treasury act prohibition on depositing public funds in banks. Section 6 allowed the Secretary of the Treasury to deposit public funds in "solvent specie-paying banks".

With this stroke of the Republican President's pen signing his name to this act of Congress, the independent treasury authorized in 1846 and operating over the past 15 years was weakened (only to be effectively gutted by the February 25, 1862 act, below).

Less than four months into the war, banks were again made central figures in the world of government finance.

Section 5 of the August 5, 1861 act made the demand treasury notes of July 17, 1861 "receivable in payment of public dues".

Section 3 allowed the demand treasury notes to be issued in denominations down to five dollars.

Section I: 1862, February 25 Act

On February 25, 1862, the act of Congress was signed into law authorizing the first issuance of United States notes so designated, the so-called Civil War "greenbacks".

In an earlier act of February 12, 1862 (12 Stat. 338), however, the title thereof was "*An Act to authorize an additional issue of United States Notes*" (though they were not so-referenced as United States notes in the body of that law).

Obviously, if this earlier February 12th act was for "an *additional* issue" of United States notes, then even this February 12th act was not the first to issue United States notes.

The brief February 12th act empowered the Secretary of the Treasury to issue another $10,000,000 of "notes payable on demand" as "like notes, and for like purposes" as the July 17 and August 5, 1861 acts.

Since the "additional issue of United States Notes" authorized by the February 12, 1862 act were "like" the (demand) notes of July 17, 1861 and August 5, 1861, then all these notes were (at least later) considered United States notes (even though when first authorized they were not yet thusly denominated [but referred to as treasury notes]).

By the February 25, 1862 act, however, notes not bearing interest and payable to bearer were specifically and finally officially referred to as "United States notes".

The February 25, 1862 act required the demand treasury notes issued under the July 17, 1861 act to be withdrawn from circulation and substituted with the new United States notes.

The United States notes were made (as one read earlier, in Chapter 6, Section H) under **Section 1** of the **February 25th act**:

> "receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind whatsoever, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."
>
> Volume 12, Statutes at Large, Page 345

The first paper notes ever declared a legal tender (under the Constitution) thus occurred under the watch of the first (modern-day) Republican Party President, Abraham Lincoln.

With such an ominous and ignoble act, the Republican Party should have been made less historically-relevant than the Bull Moose Party. Scarcely could a more game-changing act have been instituted than that authorizing legal tender notes.

Section 2 allowed for borrowing up to $500,000,000 on coupon or registered bonds, redeemable at the pleasure of the United States after five years, and payable twenty years from the date of issuance, paying six percent annual interest.

Under the 1812 act which first authorized treasury notes, there it provided that the treasury notes "shall be every where received in payment of all duties and taxes laid by the authority of the United States, and of all public lands sold by the said authority".

In 1815, Section 6 of that act stated that the treasury notes therein authorized shall be "every where received in all payments to the United States".

Under the 1837 act, Section 6 stated that the treasury notes therein authorized "shall be received in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by the said authority, and of all debts to the United States, of any character whatsoever, which may be due and payable".

None of these earlier treasury notes were ever made a legal tender, but all were acceptable for all payments due the government.

Now, however, one notices, that these new 1862 United States notes which were specifically delineated both a legal tender and a lawful money could <u>not</u> be used for payment of duties on imports or interest due upon bonds and notes!

Whereas earlier non-tender treasury notes could be used for payment of all dues owed the government, the first legal tender/lawful money paper currency issued by the United States interestingly could not be used in all cases.

This should strike the reader as exceedingly odd, providing the first clue that something is not entirely right with this February 25, 1862 act which first authorized the first legal tender paper notes.

One also notices that United States notes "shall be received the same as coin, at their par value, in payment for any loans that may hereafter be sold or negotiated…and may be re-issued from time to time as the exigencies of the public interest may require".

Further discussion will be yet again postponed until further information is covered.

Section J: 1862, March 17 Act

On March 17, 1862, Congress made the demand treasury notes authorized by the act of July 17, 1861 (but not the two other types of [interest-paying] treasury notes therein authorized) and also notes of the February 12, 1862 act "in addition to being receivable in payment of duties on imports, be receivable, and shall be lawful money and a legal tender, in like manner, and for the same purposes, and to the same extent", as the notes authorized by the February 25, 1862 act.

Section K: 1862, July 11 Act

On July 11, 1862, Congress authorized the issuance of $150,000,000 of additional United States notes not bearing interest and payable to bearer, in denominations of at least one dollar.

The United States notes were made, like their February 25, 1862 cousins:

> "receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest on bonds, notes, and certificates of debt or deposit ; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid".
>
> Volume 12, Statutes at Large, Page 532

Section L: 1863, February 25 Act

Section 5 of the act of February 25, 1863 authorized the formation of national banking associations (as stated in Section 6, by those so inclined "to avail themselves of the advantages of this act" and form a national bank). Volume 12, Statutes at Large, Page 665 @ 666 & 667

This February 25, 1863 act first authorized the establishment of national [private] banks (as opposed to charters provided by State governments for State-chartered [private] banks).

Congress established a separate currency bureau in the Treasury Department, charged with the execution of this act and any other act later passed for the issuance and regulation of a national currency, headed by the chief officer denominated the comptroller of the currency.

Section 7 required but 30% of the capital stock of the banking associations created under this act to be paid in at the time of commencement of its banking business, with the remainder being paid in installments (typically out of banking profits).

Section 15 required every national banking association formed under this act to "transfer and deliver" to the treasurer of the United States any United States bonds bearing interest "to an amount not less than one third of the capital stock paid in".

Section 16 stated that "upon the making of any such transfer and delivery", the association making the same shall then "be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered".

The circulating notes of the national banks thus rested upon United States bonds which were transferred and delivered to the treasurer of the United States, and there stored to secure the said notes (which bank notes could be circulated to 90% of the "current market value" of the U.S. bonds).

Section 18 allowed for the comptroller of the currency to furnish the national banks "suitable notes for circulation", which notes "shall express on their face that they are secured by United States bonds, deposited with the treasurer of the United States".

The notes were also to “express on their face the promise of the association receiving the same, to pay on demand”. “Pay on demand” meant that these banking notes were payable in specie on demand, that the holder of any bank note could redeem the bank’s note at the issuing bank at any time and receive therefore gold or silver.

Section 20 stated that after any such association shall have caused its “promise to pay such notes on demand to be signed” in the manner making them “obligatory promissory notes, payable on demand, at its place of business”, such association was then authorized “to issue and circulate the same as money”.

Such private banking notes following the requirements were then made to be “received at par in all parts of the United States in payment of taxes, excises, public lands, and to be paid for all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States, except interest on public debt”.

Being receivable for most government payments thus provided these federally-chartered private bank notes with increased clout — if they were good enough for the government, then surely they must be good enough for the private individual (so went the thought).

Again, there was no attempt to make these private bank notes a legal tender, obligatory upon creditors to receive them.

In section 6 of the act, the “persons uniting to form such an association” under the act were required to “make a certificate” which provided the name of the association, the places where it was to operate, the amount of capital stock, the names and residence of shareholders, etc.

When the certificate was accepted by the comptroller of the currency and “authenticated by his seal of office”, the certificate was declared to be “legal and sufficient evidence in all the courts and places within the United States, or the jurisdiction of the Government thereof”, of the existence of the association and other matters.

Section 25 provided that “if any such association shall, at any time fail to redeem, in the lawful money of the United States, any of its circulating notes” that the person holding the bank note may set in motion a formal protest.

The bank in default thereafter could no longer pay out or discount any notes or bills, or otherwise prosecute the business of banking, “except to receive and safely keep money belonging to it, and to deliver special deposits”.

Section 26 detailed that once the comptroller determined the bank failed to pay out specie on its bank notes, that the United States bonds and securities pledged by the association were forfeited to the United States, for paying the holders of the bank notes their due.

Section 41 required all banking associations created under this act to have on hand at all times, in lawful money of the United States, “an amount equal to at least twenty-five per centum of the aggregate amount of its outstanding notes of circulation and its deposits”.

Section 48 further stated that no association shall perform normal banking operations therein listed anytime it was not “redeeming its circulating notes in lawful money of the United States.”

Section 54 authorized the Secretary of the Treasury to use the national banking associations as "depositaries of the public moneys" (excepting payments "from customs").

The February 25, 1863 national banking act thus dealt a harsh blow to the independent treasury act of 1846 (and of course, State banks), with government funds now being deposited in solvent, specie-paying banks. Of course, all the many Civil War-era financial acts covered thus far undermined the sub-treasury's goal of conducting business primarily in gold and silver coin, wholly removed from the banking system.

Section M: 1863, March 3 Act

On March 3, 1863, Congress authorized further borrowing of $300,000,000 for the current fiscal year and another $600,000,000 the following (upon coupon or registered bonds, payable in 10 - 40 years). Section 2 authorized another $400,000,000 to be issued in treasury notes payable within three years, bearing interest at 6%.

The treasury notes "may be made a legal tender to the same extent as United States notes for their face value excluding interest, or they may be made exchangeable…for United States notes." Volume 12, Statutes at Large, Page 709 @ 710

Section 3 authorized the Secretary of the Treasury, "if required by the exigencies of the public service, for the payment of the army and navy, and other creditors of the government", to issue $150,000,000 of United States notes not bearing interest and payable to bearer.

Section 3 further stated that the (United States) notes "shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt."

Section 4 authorized the Secretary of the Treasury to issue "fractional notes" of less than one dollar, which notes shall be "exchangeable…in sums not less than three dollars, and shall be receivable for postage and revenue stamps, and also in payment of any dues to the United State less than five dollars, except duties on imports".

Section 5 authorized the Secretary of the Treasury to "receive deposits of gold coin and bullion" and then to issue therefore "certificates representing coin". By Section 5 of this March 3, 1863 act, then, the first issuance of gold certificates were authorized.

Many people today mistakenly believe that gold certificates were fully backed by gold bullion or gold coin, ounce-per-ounce, grain-per-grain.

Section 5, however, states otherwise:

> "which certificates…issued for coin and bullion deposited, shall not at any time exceed twenty per centum beyond the amount of coin and bullion in the treasury".

Thus, for every $100 of gold deposited in the treasury, $120 of gold certificates could be issued. Therefore the percentage of backing was thus exposed to political whim at the onset.

Section N: 1875, January 14 Act

Following the conclusion of the war and increasing economic stabilization, the January 14, 1875 "Specie Resumption" act authorized and required the Secretary of the Treasury to "as rapidly as practicable", to mint subsidiary silver coins and to redeem the fractional currency of similar denominations "until the whole amount of such fractional currency outstanding shall be redeemed". Volume 19, Statutes at Large, Page 33

History has consistently shown the smaller the denomination of paper notes that circulate as money, the more devastating the damage. Thus, the fractional notes (note in face value in fractions of the dollar) authorized in the March 3, 1863 act increased monetary devaluation to such an extent that the "whole amount…outstanding" was now ordered to be taken up and redeemed.

Reinstituting hard currency at the lowest levels of trade otherwise better resists inflation/monetary devaluation pressures, all other things being equal.

Section 2 eliminated the current charge of one-fifth of one percent for converting standard gold bullion into coin, and "hereafter no charge shall be made for that service". This elimination of the mint charge for striking gold coin thus established the free coinage of gold for anyone bringing their gold bullion into the mint or its branches.

Section 3 eliminated the limit on the aggregate amount of circulating notes issued by national banking associations, thereby freeing them to issue their notes dependent upon their capital. It was made the duty of Secretary of the Treasury to redeem, in coin, the United States legal-tender notes in excess of $300,000,000.

Section 3 further made it the duty of the Secretary of the Treasury to redeem, on and after January 1, 1879, all of the legal-tender United States notes then outstanding, thereby withdrawing them from circulation.

Section O: 1878, February 28 Act

In the February 28, 1878 act covered herein under the primary acts of Congress under Chapter 6, Congress authorized the first issuance of silver certificates (in denominations not less than $10). The silver certificates were made in Section 3 "receivable for customs, taxes, and all public dues".

Volume 20, Statutes at Large, Page 25 @ 26

Section P: 1878, May 31 Act

Although Congress in 1875 initially provided for redemption of legal tender United States notes, in 1878 Congress declared otherwise, that it shall no longer "be lawful for the Secretary of the Treasury…to cancel or retire any more of the United States legal-tender notes".

Volume 20, Statutes at Large, Page 87

Section Q: 1886, August 4 Act

An **August 4, 1886** act which appropriated money for payment of various civil expenses of government "authorized and required" the Secretary of the Treasury to issue "silver-certificates in denominations of one, two and five dollars", which smaller-denomination silver certificates shall be "receivable, redeemable, and payable in like manner and for like purposes as provided by the act of February twenty-eighth, eighteen hundred and seventy eight".

Volume 24, Statutes at Large, Page 222 @ 227.

Section R: 1890, July 14 Act

The **July 14, 1890** Sherman Silver Purchase act directed the Secretary of the Treasury to purchase to the amount of 4.5 million ounces of silver bullion per month not exceeding one dollar for every 371.25 grains of pure silver. Payment was to be made in "silver bullion treasury notes of the United States".

Section 2 made these silver bullion treasury notes "redeemable on demand, in coin", and:

> "legal tender in payment of all debts, public and private except where otherwise expressly stipulated in the contract, and shall be receivable for customs, taxes, and all public dues, and when so received may be reissued."

Volume 26, Statutes at Large, Page 289

In contrast with the many other legal tender/lawful money note acts enacted since February 25, 1862, this 1890 act did not also make these demand treasury notes a lawful money. These silver bullion treasury notes were receivable for all government dues.

Section S: 1900, March 14 Act

Section 1 of the Act of March 14, 1900 (also hereinbefore discussed in Chapter 6) established the gold dollar of 25.8 grains of gold nine-tenths fine to be the "standard unit of value".

Volume 31, Statutes at Large, Page 45

Section 2 of the Act begins:

> "That United States notes, and Treasury notes issued under the Act of July fourteenth, eighteen hundred and ninety, when presented to the Treasury for redemption, shall be redeemed in gold coin of the standard fixed in the first section of this Act, and in order to secure the prompt and certain redemption of such notes as herein provided it shall be the duty of the Secretary of the Treasury to set apart in the Treasury a reserve fund of one hundred and fifty million dollars in gold coin and bullion, which fund shall be used for such redemption purposes only".

Section 2 made it the duty of the Secretary of the Treasury to set apart a $150,000,000 gold reserve fund, using this gold coin and bullion only for redeeming the United States notes and Treasury notes of July 14, 1890.

Section 3 detailed that "nothing contained in the Act shall be construed to affect the legal-tender quality as now provided by law of the silver dollar, or of any other money coined or issued by the United States."

Section 1 made it the further duty of the Secretary of the Treasury "maintain such parity" of "all forms of money issued or coined by the United States" with the gold dollar of 25.8 grains of gold nine-tenths fine.

Section 4 established the "division of issue" and the "division of redemption" in the Treasury Department for keeping all records relating "to the issue and redemption of United States notes, gold certificates, silver certificates, and currency certificates".

These divisions were to track the amount of gold coin which corresponded with outstanding gold certificates, the silver dollars which corresponded with the outstanding silver certificates, the United States notes which corresponded with the outstanding "currency certificates", and the redemption of United States notes and treasury notes otherwise outstanding.

The respective funds were respectively pledged as trust funds and were to be "used for no other purpose".

Section 5 ordered the cancellation of treasury notes "as fast as standard silver dollars are coined" and as they came into the treasury, with silver certificates being issued for the "silver dollars so coined" in their place.

Section 6 again authorized for the issuance of gold certificates, in denominations of "not less than twenty dollars". The gold coin so deposited "shall be retained in the Treasury and held for the payment of such certificates on demand, and used for no other purpose".

The gold certificates were made by Section 6 to be "receivable for customs, taxes, and all public dues, and when so received, may be reissued". They were also capable of being held by the national banking associations as part of its lawful reserve.

Section 14 again commented that this act was neither intended to "preclude the accomplishment of international bimetallism whenever conditions shall make it expedient and practicable".

Section T: 1913, December 23 Federal Reserve Act

Monetary Laws primarily deals with America's gold and silver coinage acts. However, since paper currency has formed, for better or worse (o.k., for worse), much of our circulating medium since the earliest of periods of American history, it has been necessary to delve somewhat into the acts of Congress which dealt with a national paper currency.

Since national banks have issued much of that paper currency, it has also been necessary to peek into the national banking acts of Congress. However, it is beyond the scope of this work to concentrate much on such banking matters, as inter-related even as they otherwise are.

Being that as it may, it is appropriate nevertheless to briefly look into the act of **December 23, 1913** which established the Federal Reserve system.

First of all, it is pertinent to realize that the last section, **Section 30**, expressly stated that:

> "The right to amend, alter, or repeal this Act is hereby expressly reserved".
>
> Volume 38, Statutes at Large, Page 251 @ 275

This author first maintains that governments created by man have no such thing as "rights", at least as "rights" are considered in the Declaration of Independence (as inherent and unalienable rights [given by God]).

"Rights" created or extended by man through government only amount to revocable privileges, subject to the current political whim of those in power.

Nevertheless, Congress explicitly reserved the right (this author would argue "power") to repeal the Federal Reserve act and thereby abolish the Federal Reserve system (and the banks created under it thus would have no recourse which could preclude Congress from repealing their charters).

Section 15 provided that the Federal Reserve banks "shall act as the fiscal agents of the United States"; further distancing government from the independent treasury.

Of primary interest for later discussion is the following passage, found under **Section 16**, that each Federal Reserve bank was specifically required:

> "to maintain on deposit in the Treasury of the United States, a sum of gold sufficient in the judgment of the Secretary of the Treasury for the redemption of the Federal reserve notes issued to such bank, but in no event less than five per centum".
>
> Volume 38, Statutes at Large, Page 251 @ 266

The banks organizing under the Federal Reserve system agreed (in exchange for the benefits extended to them) to keep deposited in the Treasury of the United States a "sum of gold" sufficient "in the judgment of the Secretary of the Treasury" (for the redemption of notes issued to such bank).

Section 16 also required every Federal Reserve bank to maintain (in house):

> "reserves in gold or lawful money of not less than thirty-five per centum against its deposits and reserves in gold of not less than forty per centum against its Federal reserve notes in actual circulation".
>
> *Ibid.*

Whatever the actual percentage determined "sufficient" in the "judgment" of the Secretary of the Treasury to be kept at the Treasury, this amount was to count toward the 40% requirement for backing on the notes.

Section 16 made Federal Reserve notes:

> "obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in gold on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or in gold or lawful money at any Federal reserve bank."
>
> Volume 38, Statutes at Large, Page 251 @ 265

The Federal Reserve notes issued by the Federal Reserve Board (for "the purpose of making advances to Federal reserve banks", as noted in Section 16) were "obligations of the United States" — they were securities providing evidence of debt owed by the United States.

Although Federal Reserve notes as a whole were backed with gold to 40% of their outstanding circulating value (and were individually redeemable in lawful money to their face value), they were not (then) made a lawful money, nor a legal tender.

Section 16 further states:

> "The Federal reserve agent shall hold such gold, gold certificates, or lawful money available exclusively for exchange for the outstanding Federal reserve notes when offered by the reserve bank of which he is a director. Upon the request of the Secretary of the Treasury, the Federal Reserve Board shall require the Federal reserve agent to transmit so much of said gold to the Treasury of the United States as may be required for the exclusive purpose of the redemption of such notes".
>
> Volume 38, Statutes at Large, Page 267

Section 16 further states:

> "Any Federal reserve bank may at any time reduce its liability for outstanding Federal reserve notes by depositing, with the Federal reserve agent, its Federal reserve notes, gold, gold certificates, or lawful money of the United States."
>
> *Ibid*.

Thus, several different portions of Section 16 require, any time the Secretary of the Treasury commands, that the Federal Reserve bank (or the Federal Reserve agent for the particular Federal Reserve district which oversees the various banks), to send gold to the Treasury of the United States for a number of various reasons (to maintain sufficient funds for adequately backing deposits and Federal Reserve notes).

Having discussed the various acts of Congress which dealt with the borrowing of money adequately for our present purposes, it is appropriate to summarize the points.

Following the onset of the War of 1812, the first treasury notes were issued. The first issues were interest-bearing notes payable in one-year, but in 1815 demand notes "payable to bearer" were issued, transferable between individuals merely by delivery and were payable in demand in gold or silver coin. In 1817, several years following the successful conclusion of the

war, Congress repealed all acts which had authorized the issuance of treasury notes, showing they had been issued much as a war-time expedient.

In 1816, Congress authorized the second bank of the United States, whose notes added a measure of uniformity to a vast field of paper notes issued by a growing emergence of State banks.

Following a 20-year hiatus, treasury notes were authorized to be again issued in 1837, after the demise of the second bank of the United States (whose notes were necessarily extinguished when it ended, after attempts to renew its charter failed in Congress).

None of the notes issued to this point had ever been made a legal tender; the only "things" before this (under the Constitution) which had been declared a tender were gold and silver coins.

During the Civil War, Congress authorized the first issuance of United States notes. These were the first notes declared a legal tender and lawful money. The notes were a tender (within the United States) for all private and public debts, except payments of interest to the holders of the public debt and for customs payments (which were required to be paid in coin).

National banks were also authorized during the Civil War, which, like State banks, also began issuing their own notes (no bank notes were declared a tender, although after 1863 specie-redeemable bank notes were receivable for government dues [except for interest and customs]).

In accordance with Moore's Law, bad money drives the good out of circulation. Anytime wide circulation of depreciating notes became prevalent, gold and silver coins became less prevalent.

The mechanisms by which gold and silver were depleted with note issuance were two-fold. Domestically, people spending their money will typically spend first that thing which is worth to them the least (but which is yet still accepted [perhaps begrudgingly] by others), spending last that which best holds its value.

Thus, domestically, with excessive issuance of paper notes, gold and silver coins tended to be saved and notes were spent (like a hot potato). Thus, currency tended toward circulation (whereas gold and silver coins were held). The fact that American currency tended toward paper notes, however, does not signify that those paper notes were highly valued (any more than passing the Old Maid™ in that card game signifies it to be of great worth since it is traded so readily).

Internationally, when prices of American-made goods and American commodities were stable and affordable, companies which imported foreign products into the United States often took American products back in return, hoping to profit also upon their sale overseas.

However, as an increasing number of banking or treasury notes circulated in the United States, soon prices rose on all goods in relation due to an excessive amount of monetary claims relative to a fairly stable or gradually increasing supply of goods and available services. With increasing prices, fewer importers could hope to earn a profit on exporting costly American goods. Thus importers increasingly chose to take back instead American gold and silver coin (as paper money from local or even national banks would do them little good overseas).

Thus, paper money drives gold and silver out of circulation — at first and locally into piggy banks and cookie jars, and ultimately overseas, as the coin is drawn from long-term savings as high prices from excessive money creation drains America's liquid savings.

Soon after the first issuance of legal tender paper notes by Congress in 1862, debtors owing money happily paid their contracts with the legal tender United States notes. Creditors were obviously displeased when debtors attempted to pay in paper that which was owed in gold or silver.

As would be expected, court challenges to the legal tender acts immediately developed and worked their way through the court system. It is thus appropriate to look briefly into the pertinent cases which made it to the supreme Court, to see what it determined.

Section U: *Bronson v. Rodes,* 74 US 229, 1869

In *Bronson v. Rodes,* the question considered by the supreme Court was whether Bronson was:

> "bound by law to accept from Rodes United States notes equal in nominal amount to the sum due him as full performance and satisfaction of a contract which stipulated for the payment of that sum in gold and silver coin, lawful money of the United States?" 74 U.S. 229 @ 245.

In answering that question, the court observed that:

> "there was no necessity in law for such stipulation, for at that time no money, except gold and silver, had been made a legal tender. The bond without any stipulation to that effect would have been legally payable only in coin." *Ibid*., Page 246.

The court also commented on the general effect of the various coinage acts of Congress, consistent with sound constitutional monetary principles:

> "The design of all this minuteness and strictness in the regulation of coinage is easily seen. It indicates the intention of the legislature to give a sure guaranty to the people that the coins made current in payments contain the precise weight of gold or silver of the precise degree of purity declared by the statute. It recognizes the fact, accepted by all men throughout the world, that value is inherent in the precious metals; that gold and silver are in themselves values, and being such, and being in other respects best adapted to the purpose, are the only proper measures of value; that these values are determined by weight and purity; and that form and impress are simply certificates of value, worthy of absolute reliance only because of the known integrity and good faith of the government which give them." *Ibid*., Page 249.

The *Bronson* court further said that (italics added):

> "It follows that there were two descriptions of money *in use at the time* the *tender* under consideration *was made*, both authorized by law, and both made

> legal tender in payments. The statute denomination of both descriptions was dollars; but they were essentially unlike in nature. The coined dollar was, as we have said, a piece of gold or silver of prescribed degree of purity, weighing a prescribed number of grains. The note dollar was a promise to pay a coined dollar; but it was not a promise to pay on demand nor at any fixed time, nor was it, in fact, convertible into a coined dollar. It was impossible, in the nature of things, that these two dollars should be the actual equivalents of each other, nor was there anything in the currency acts purporting to make them such". *Ibid*., Pages 251 – 252.

The *Bronson* court then ruled that the word "debts" as used in the February 25, 1862 act which made United States notes "legal tender…of all debts" did not include obligations created by express contracts for the payment of gold and silver, whether coined or in bullion.

The court stated that:

> "express contracts to pay coined dollars can only be satisfied by the payment of coined dollars. They are not 'debts' which may be paid by the tender of United States notes";

but

> when contracts have been made payable in dollars generally, without specifying in what description of currency payment is to be made, judgments may be entered generally, without such specification". *Ibid*., Page 254.

The court specifically stated that they did <u>not</u> think it:

> "necessary now to examine the question whether the clauses of the currency acts, making the United States notes a legal tender, are warranted by the Constitution". *Ibid*., Page 251.

As is typical in such instances, if the court can decide the case before them without resorting to larger issues of constitutionality, it will first do so.

Earlier, when the only legal tender was gold or silver coin, the court stated there was no need to specify payment in (dollars of) gold or silver. However, once notes (also denominated in dollars) were made a tender in 1862, the court stated that the desire of any creditor to be paid in coined dollars must be so stated in all post-February 25, 1862 contracts (to avoid confusion and specify the type of dollars owed [with any benefit going to the debtor if the creditor did not clearly specify in the contract {typically drawn by the latter}]).

Section V: *Hepburn v. Griswold*, 75 US 603, 1870.

In *Hepburn v. Griswold*, the court stated that they were:

> "brought to the question, whether Congress has power to make notes issued under its authority a legal tender in payment of debts, which, when contracted, were payable by law in gold and silver coin". 75 U.S. 603 @ 610.

The *Hepburn* court appropriately answered this question in the negative, concluding:

> “We are obliged to conclude that an act making mere promises to pay dollars a legal tender in payment of debts previously contracted, is not a means appropriate, plainly adapted, really calculated to carry into effect any express power vested in Congress; that such an act is inconsistent with the spirit of the Constitution; and that it is prohibited by the Constitution”. *Ibid.,* Page 625.

A few other comments of the court regarding the coining of money were also instructive, including regarding to the power of Congress to regulate the value of coined money, acknowledged that the power of “regulating” money:

> “is a power to determine the weight, purity, form, impression, and denomination of the several coins, and their relation to each other, and the relations of the foreign coins to the monetary unit of the United States”. *Ibid*., Page 616.

The *Hepburn* court acknowledged also the power of Congress to issue notes and the power to make these notes a legal tender are not one in the same, saying:

> “Indeed, we are not aware that it has ever been claimed that the power to issue bills or notes has any identity with the power to make them a legal tender. On the contrary, the whole history of the country refutes the notion”. *Ibid.*

As too often occurs during time of war, the court acknowledged that:

> “It is not surprising that amid the tumult of the late civil war, and under the influence of apprehensions for the safety of the Republic almost universal, different view, never before entertained by American statesmen or jurists, were adopted by many. The time was not favorable to considerate reflection upon the constitutional limits of legislative or executive authority. If power was assumed from patriotic motives, the assumption found ready justification in patriotic hearts. Many who doubted yielded their doubts; many who did not doubt were silent. Some who were strongly averse to making government notes a legal tender felt themselves constrained to acquiesce in the views of the advocates of the measure. Not a few who then insisted upon its necessity, or acquiesced in that view, have, since the return of peace, and under the influence of the calmer time, reconsidered their conclusions.” *Ibid*.

The court stated that the Fifth Amendment prohibition against depriving any person of (life, liberty, or) property without due process of law “cannot have its full and intended effect unless construed as a direct prohibition of the legislation which we have been considering” and that “[i]t is quite clear, that whatever may be the operation of such an act, due process of law makes no part of it”. *Ibid*., Page 624.

Both the *Bronson* and *Hepburn* cases properly supported limitation on the legal tender nature of the United States notes, consistent with the Constitution.

Of course, those who push for government to be all things at all times wouldn’t want to accede to such a limited understanding, for the power to issue legal tender notes would greatly augment all other powers. A financially-limited tyranny cannot do nearly as much as can one with greater financial resources.

Section W: *Juilliard v. Greenman*, 110 US 421, 1884

The 1884 case of *Juilliard v. Greenman* will be discussed before looking at the 1871 case of *Knox v. Lee*, for the 1871 case better correlates with the topic of the next chapter herein and thus offers a better transition of study (but realize that the *Knox* court was the first to establish the precedent that legal tender notes were binding upon creditors).

Both the *Juilliard* and *the Knox* Courts specifically mentioned and expounded upon the act of June 28, 1834, where the gold eagle coins minted under the 1792 act were lightened from 270 grains of standard gold down to 258, yet eagle coins issued under both acts were made equal to the value of ten dollars (and fractional coins at their fractional value).

That 1834 act supporting an unsupportable bi-metallic monetary standard was thus used as a means to justify a legal tender paper currency, which would then more easily allow for the later severing of both gold and silver from our legal tender money.

First only gold and silver coins were a tender. Then paper was declared to also be a tender (alongside gold and silver). Later gold was confiscated and finally silver was removed from our coin, leaving only paper — and today Americans wonder why we have such financial upheaval, after we have totally separated ourselves from our standard of value.

If we gave up our standards of measure, volume or weight, would people question why their gallon of milk got smaller, why one started gaining weight or why one is getting shorter (o.k., maybe these last two examples are not the best illustrations to use, at least for those of us who have already hit the big 5-0!)?

Both courts made special note that after enactment of the 1834 act, debts could be paid with less gold than before the law was approved, even though the dollar figure was the same.

For example, a $15 debt could be paid with one gold eagle and one half-eagle (or other combinations not here relevant) both before or after the 1834 act (with 1792-era gold coins or 1834 gold coins).

However, 1792-era gold worth $15 would have contained 371.25 grains of fine gold, whereas after the 1834 act, that same $15 debt would be paid only with 348 grains of fine gold in the new 1834 gold coins.

The *Juilliard* and *Knox* courts then used this fact to infer that creditors were thus robbed of the missing 23.25 grains of fine gold.

While unfortunately difficult to argue in theory (because of the inherent injustice of a bi-metallic monetary standard), in practice this circumstance did not play out as the court inferred.

Comparing the time after the legal change with the time before the legal change, it is true that less gold would be received afterword for the same nominal payment due in dollars. This comparison, however, isn't really fair; wholly unmentioned by the court is that the creditors were actually owed "dollars" — of either gold or silver, paid at the discretion of the debtor (since each were a legal tender).

Thus, no creditors were robbed of their just due, because they were due dollars, dollars of gold <u>or</u> silver, not just gold.

It should be noted that contracts payable in a specific number of grains of fine gold were unaffected by the 1834 coinage act. Contracts payable not in money, but instead in gold bullion, were assured repayment in the specific number of grains of fine gold and the 1834 coinage act had no bearing on any such contracts.

But the court was discussing contracts payable in money. What the court ignored was that both before and after the 1834 act, the $15 of debt in the example above could have been paid in 15 silver dollars, or 5,568.75 grains of fine silver.

Because of the bi-metallic monetary standard, each metal was a full legal tender and *either* could be used for the payment of contractual debts.

The *Juilliard* and *Knox* courts used the inherent contradiction of a bi-metallic monetary standard (with the legal fiction that two separate items are fully equivalent and the absence of a true, fixed standard) as ammunition against a metallic monetary standard itself (to support a non-metallic "standard").

The two-metal monetary system was supported by Hamilton because he didn't want to minimize the amount of money a second metal could help bring into circulation. A true monetary "standard" was thus passed over for a standard which would need periodic "adjustment".

This adjustment process was later used by clever men with questionable morals for justification to begin "adjusting" both gold and silver out of circulation, as they first justified legal tender paper notes.

It was certainly not in error that courts should examine the bi-metallic monetary standard and point out its inherent inconsistencies. With such an examination by the courts, it could have helped correct monetary inconsistencies.

However, for the courts to point out the inconsistency of using two different metals (gold and silver) in a single monetary standard (dollars) only to then propose extending legal tender status even further on to paper notes (which can in no sense form a standard) is well beyond proper form.

The single question the *Juilliard* court sought to answer was:

> "whether notes of the United States, issued in time of war, under acts of Congress declaring them to be a legal tender in payment of private debts, and afterwards in time of peace redeemed and paid in gold coin at the Treasury, and then reissued under the act of 1878, can, under the Constitution of the United States, be a legal tender in payment of such debts". U.S. 437 – 438.

The *Juilliard* court writes of what "appears to us to follow, as a logical and necessary consequence":

> "that Congress has the power to issue the obligations of the United States in such form, and to impress upon them such qualities as currency for the purchase of merchandise and the payment of debts, as accord with the usage of sovereign governments. The power, as incident to the power of borrowing money and issuing bills or notes of the government for money borrowed, of impressing upon those bills or notes the quality of being a legal tender for the

> payment of private debts, was a power universally understood to belong to sovereignty, in Europe and America, at the time of the framing and adoption of the Constitution of the United States. The governments of Europe, acting through the monarch or the legislature, according to the distribution of powers under their respective constitutions, had and have as sovereign a power of issuing paper money as of stamping coin. This power has been argued and fully considered, in which the Emperor of Austria, as King of Hungary, obtained from the English Court of Chancery an injunction against the issue in England, without his license, of notes purporting to be public paper money of Hungary." *Ibid*., Page 447.

One must be careful not to ascribe too much meaning to such legal filler. That the issuance of legal tender notes were understood to belong to sovereignty in Europe and America at the time of framing and adopting the Constitution, though perhaps true, it is yet wholly irrelevant (in reference to "America", realize that the Americas include South and Central America, and in North America there is also Canada, and [at the time, also Russian Alaska]).

It is true that the Emperor of Austria, as King of Hungary, obtained an injunction from the English Court of Chancery? Probably, *but so what*? Just because some judge cited such facts doesn't mean that they are actually pertinent to the case at hand.

It matters not under the Constitution for the United States of America what the written document of some other country allows that king, dictator, or potentate.

That such irrelevant matters are pressed merely points to the high level of desperation of those who propound such a position, who cannot refer to any pertinent American (United States) history or any American (United States) law for adequate support. That such efforts have the winning hand shows our level of constitutional ignorance and the extent to which legal subterfuge has been used in converting the United States to forms of government opposite their founding.

All these legal gyrations may be thought of as but the crafty magician who uses a sleight of hand while distracting his audience as he practices his make-believe powers in attempt to shock and awe his audience. His powers in this instance, however, are merely illusory. The same is with any court which makes such statements and conclusions — such legal filler is irrelevant, referenced simply to distract those watching from catching what is really occurring.

As far as Congress impressing upon its notes qualities of a currency "as accord with the usage of sovereign governments", this is a very fine line on which to tread. Certain qualities of evidences of debt Congress undoubtedly have the authority to make, such as the power to make them more convenient.

For example, stock certificates issued as evidence of debt as the government used from 1790 are fairly cumbersome to transfer. The current stock owner must sign over the stock to relinquish it, beginning the process to remove his name from the government books kept for such a purpose. The government cancels the old stock certificate and then issues the new owner his own certificate in his own name. Though such methods are none too convenient, they are very safe and it would be extremely difficult for someone else to benefit financially from the theft of such stock certificates and in loss could be easily replaced.

The ease of transfer for bearer certificates is so easy, however, that whoever had possession of one had a strong presumption of ownership authority and a loss remained lost.

Thus, creditors, based upon their own personal objectives, could choose between various securities, weighing their own objectives of greater security or greater convenience (as well as other terms).

That Congress may impress certain qualities on their securities again does not mean they have the unlimited power to impress any and all such powers, and even when they may have great powers in one situation, does not mean they have it in all.

The *Juilliard* court amazingly reasoned and concluded that:

> "The exercise of this power not being prohibited to Congress by the Constitution, it is included in the power expressly granted to borrow money on the credit of the United States". *Ibid*., Page 448.

The court made several "out there" observations, such as:

> "The power to make the notes of the government a legal tender in payment of private debts being one of the powers belonging to sovereignty in other civilized nations, and not expressly withheld from Congress by the Constitution ; we are irresistibly impelled to the conclusion that the impressing upon the treasury notes of the United States the quality of being a legal tender in payment of private debts is an appropriate means, conducive and plainly adapted to the execution of the undoubted powers of Congress, consistent with the letter and spirit of the Constitution, and therefore, within the meaning of that instrument, 'necessary and proper for carrying into execution the powers vested by this Constitution in the government of the United States.'
>
> "Such being our conclusion in matter of law, the question whether at any particular time, in war or in peace, the exigency is such, by reason of unusual and pressing demands on the resources of the government, or of the inadequacy of the supply of gold and silver coin to furnish the currency needed for the uses of the government and of the people, that it is, as a matter of fact, wise and expedient to resort to this means, is a political question, to be determined by Congress when the question of exigency arises, and not a judicial question, to be afterwards passed upon by the courts." *Ibid*., Page 450.

It should be noted that this court stated that the power to issue legal tender notes rested not on the power to coin money, but on the power to borrow money. Recall from earlier discussion (Chapter 4) the ability to declare a tender (of gold and silver coin) only stemmed from the express authority of Congress to regulate the value of the coin they struck, or to regulate the value of foreign coin made current as money in the United States.

To the extent that the issuance of securities rested on the power to borrow money, that would therefore preclude these securities from being a tender (since though they were to be redeemed ultimately in money with a regulated value, the securities issued for money borrowed could not be regulated, and therefore not be made a tender).

Section X: *Knox v. Lee*, 79 US 457, 1871

That the courts have so consistently sought to transform the Constitution into allowing all that it didn't specifically prohibit sought to turn the means — the use of power — into an end itself (while ignoring the true end of government, to secure these rights of Life, Liberty, and pursuit of Happiness).

The subversion of government occurs by concentrating on the power of government; the lust for power being the all-encompassing objective by those who seek to practice their "magic" over all who don't understand their methods.

As we read earlier, the 1870 *Hepburn* court concluded that the February 25, 1862 act making United States notes a legal tender in the payment for private debts contracted before the act was enacted is "inconsistent with the spirit of the Constitution" and that such a power (of making notes a legal tender) is "prohibited by the Constitution".

This ruling, of course, would hardly please those who pushed for increasing government authority. The dilemma of what to do next was fairly easily solved, the same proposal made more famous later under F.D.R.'s "New Deal" administration — if one doesn't like the outcome of the court, (threaten to) change the court's composition by adding to the number of referees calling the shots (with persons of known leanings, of course).

After Republican President Ulysses S. Grant's two nominees for the supreme Court were confirmed by the Senate and two more justices were here actually added to the court (justices Strong and Bradley), the newly-packed Court accepted what became known as the Legal Tender cases of *Knox v. Lee* and *Parker v. Davis* (heard jointly). To the three dissenting justices in *Hepburn v. Griswold* were now added the two new justices, to now come to a five-to-four majority in *Knox v. Lee*, thus over-ruling *Hepburn v. Griswold*.

The controlling questions the *Knox* court sought to answer were:

> "Are the acts of Congress, known as the legal tender acts, constitutional when applied to contract made before their passage; and, secondly, are they valid as applicable to debts contracts since their enactment?" 79 U.S. Page 457 @ 529.

In coming to the opposite conclusion as the *Hepburn v. Griswold* court, one thing the court did was write as if the current condition was the condition which debtors found themselves before the passage of the legal tender acts and state:

> "the government has become an instrument of the grossest injustice ; all debtors loaded with an obligation it was never contemplated they should assume ; a large percentage is added to every debt, and such must become the demand for gold to satisfy contracts, that ruinous sacrifices, general distress, and bankruptcy may be expected". *Ibid*., Page 530.

What the court wrote then would be true today, if Congress re-instituted gold and silver at historic dollar levels and then required that these higher-valued gold and silver dollars be paid for debts incurred when debtors figured they would pay in cheap paper dollars.

Again, tactics such as these are just filler and but smoke and mirrors to distract the audience.

The court stated:

> "we will notice briefly an argument presented in support of the position that the unit of money value must possess intrinsic value. The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that of conferring a power to coin money and regulate its value. It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which itself has no value? This is a question foreign to the subject before us. The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative value determined by the coinage acts, or to multiples thereof." *Ibid.*, Pages 552 – 553.

It is important to note that this court first supporting legal tender paper notes yet did not rest that capability on the power to coin or regulate money. Nor did this court imply that Congress "may make anything which has no value money". The court only admitted that "for the time being", that "the government's promises to pay money shall be…equivalent in value to the representative value determined by the coinage acts".

What then, is so special about "the time being" that would help allow for holding mere "promises to pay money" equivalent to coined money?

An important clue was provided earlier in the opinion, where Justice Strong, writing the opinion of the court, after mentioning the express criminal jurisdiction of the United States (as expressly-listed within the Constitution; to punish counterfeiting of securities and current coin; to define and punish piracies and felonies committed on the high seas and offenses against the laws of nations; and treason [and the provision made for impeachments]), details:

> "This is the extent of power to punish crime expressly conferred. It might be argued that the expression of these limited powers implies an exclusion of all other subjects of criminal legislation. Such is the argument in the present cases. It is said because Congress is authorized to coin money and regulate its value it cannot declare anything other than gold and silver to be money and make it a legal tender. Yet Congress, by the act of April 30, 1790, entitled " An act more effectually to provide for the punishment of certain crimes against the United States," and the supplementary act of March 3d, 1825, defined and provided for the punishment of a large class of crimes other than those mentioned in the Constitution, and some of the punishments prescribed are manifestly not in aid of any single substantive power. No one doubts that this was rightfully done, and the power thus exercised has been affirmed by this court in United *States v. Marigold.* (9 Howard, 560)". *Ibid.*, Pages 535 - 536.

The vital significance of this reference to the criminal jurisdiction of the United States listed within the Constitution and how Congress were able to later legally provide for the punishment of other crimes beyond the meager list found within the Constitution must be further explored. This is the matter of the next chapter.

Chapter 11: Criminal Monetary Jurisdiction

The latter legal tender court cases nominally established that the legal tender acts were constitutional, applied to pre-existing contracts (contracts which nominally only required payment in "dollars" without further specification of those dollars), were expedient, and that the power to make the notes of government a legal tender in payment of private debts was a power belonging to the sovereign governments of the world and that this power was not expressly prohibited to Congress.

Though the court specifically concluded such findings, one might yet dare to ask *"in what instance were these conclusions actually relevant"?*

This author does not challenge any of these particular findings as in error; though he definitely argues against them having wide application.

Also of great significance was that irrespective of the *Juilliard* and *Knox* findings, gold clauses placed within private contracts (increasingly common after the advent of legal tender paper notes and especially after the adverse legal tender court cases) yet provided an impenetrable wall even to a packed court.

Thus, one later finds the gold confiscation acts of the next chapter, to remove the remaining escape route from the financially-imposed tyranny of paper money. But first, a look into the criminal jurisdiction of Congress is crucial to better understand the legal tender court cases and the later acts of gold confiscation.

Section A: 1790, April 30 Act

The act of **April 30, 1790** provided for "the punishment of certain crimes against the United States". This act was one of the two acts providing for punishment of crimes specifically cited by the *Knox v. Lee* court.

One may ask, why the court which examined the legal tender cases involving paper money cited several criminal acts of Congress (after all, the legal tender cases did not involve counterfeiting).

The answer is, *because the central concept involved in both cases* (legal tender notes vs. criminal jurisdiction as detailed in the 1790 and 1835 acts) *is identical*.

Thus it is now appropriate to examine a few of the early federal criminal statutes.

For ease of study, the various sections of the 1790 act can be fitted into a number of different categories. A brief examination of those categories is now appropriate.

The first criminal category for study is that regarding counterfeiting of the securities and current coin (within the category of federal criminal jurisdiction authorized by Article I, Section 8, Clause 6 of the Constitution).

Section 14 of the 1790 act reads:

"That if any person or person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any certificate, indent, or other public security of the United States, or shall utter, put off, or offer, or cause to be uttered, put off, or offered in payment or for sale any such false, forged, altered or counterfeited certificate, indent or other public security, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeiting, and shall thereof convicted, every such person shall suffer death."

Volume 1, Statutes at Large, Page 112

Again, the legal tender cases had nothing to do with this section or this category of federal crimes (since Justice Strong referred to a category of crimes not listed in the Constitution [and this category is obviously listed in the Constitution]).

It should be mentioned that there is no similar section in the 1790 act regarding punishment of counterfeiting of the current coin of the United States (as detailed in the constitutional clause along with securities). Recall, however, that it wasn't until 1792 that the first coinage act under the Constitution was enacted (and punishment for counterfeiting coins was therein specified, and covered in later criminal acts).

Section 1 of the 1790 act dealt with treason against the United States, stating:

"That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort, within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."

Volume 1, Statutes at Large, Page 112

Section 1 of the 1790 act is worded remarkably similar to that provided in **Article III, Section 3, Clause 1** of the **U.S. Constitution**, which reads:

"Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court".

Section 24 of the 1790 act also stated:

"*Provided always, and be it enacted*, That no conviction or judgment for any of the offences aforesaid, shall work corruption of blood, or any forfeiture of estate." 1 Stat. 117

This latter section coincided with the specific constitutional prohibition of such (with regards to treason, anyway) found in **Article III, Section 3, Clause 2** of the Constitution, which states:

> "The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture, except during the Life of the Person attainted".

Sections 1 and 24 are also specifically authorized constitutionally (and therefore not the category referred by the Court).

With further study, one understands that it is not mere coincidence for the similarity between the 1790 legislative act regarding treason and the wording found in the Constitution. This point is highlighted by looking at another of the criminal jurisdictions found in the Constitution**,** that which is found in **Article I, Section 8, Clause 10**, which is that Congress shall have power:

> "to define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations".

A quick comparison between Article III, Section 3, Clause 1 and Article I, Section 8, Clause 10 is an enlightening exercise into greater understanding of a government power too seldom reflected upon, the power of defining words to meet a specific legislative intent.

Congress have the specific power "to *define* and punish Piracies", but may only "declare the Punishment of Treason".

One can see that the definition of treason is fixed by the Constitution and thus it is beyond the power of Congress to define it otherwise.

Congress cannot make anything treason other than that specifically defined in the Constitution, of "levying war" against the United States, "adhering" to their "enemies", and giving these enemies "aid and comfort". Further, it takes the testimony of two separate witnesses to the same overt act or confession in open court to convict such a person of treason.

However, in Article I, Section 8, Clause 10, members of Congress are expressly provided the power not only to punish piracy and felonies committed on the high seas, *but also to define them.*

The power of definition is a powerful tool in the impressive arsenal of government, one fairly capable all by itself of extending extreme power in government. As we saw earlier (Chapter 4), because of the explicit ability to define piracy, Congress were able to define the importation of foreign slaves into the U.S. in 1820 as an act of piracy (3 Stat. 600), made punishable by death.

Sections 9 – 12 of the 1790 act fit well into the category of piracy and felonies committed on the high seas. For example (italics added):

Section 9:

> "That if any citizen shall commit any *piracy* or robbery…*upon the high sea*…such offender shall…be deemed, adjudged and taken to be a pirate, felon, and robber, and on being thereof convicted shall suffer death." 1 Stat. 114

Section 10:

"That every person who shall…knowingly and wittingly aid and assist, procure, command, counsel or advise any person or persons, to do or commit any murder or robbery, or other *piracy* aforesaid, *upon the seas*, which shall affect the life of such person…then all and every such person…shall be, and they are hereby declared, deemed and adjudged to be accessory to such piracies before the fact, and every such person being thereof convicted shall suffer death." *Ibid*.

Section 12:

"That if any seaman or other person shall commit manslaughter *upon the high seas*, or confederate, or attempt to endeavour to corrupt any commander, master, officer or mariner, to yield up or to run away with any ship or vessel, or with any goods, wares, or merchandise, or to turn pirate, or to go over to or confederate with pirates, or in any wise trade with any pirate knowing him to be such, or shall furnish such pirate with any ammunition, stores or provisions of any kind, or shall fit out any vessel knowingly and with a design to trade with or supply or correspond with any pirate or robber *upon the seas* ; or if any person or persons shall any ways consult, combine, confederate or correspond with any pirate or robber *on the seas*, knowing him to be guilty of any such piracy or robbery ; or if any seaman shall confine the master of any ship or other vessel, or endeavour to make a revolt in such ship; such person or persons so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars. *Ibid.,* Page 115

Such authority for Congress to provide for the punishment of crimes of piracy on the high seas is directly provided by Article I, Section 8, Clause 10 of the Constitution and neither can these sections then be challenged as beyond the proper authority of Congress.

Another heading into which the sections of the 1790 act for punishing various crimes can be divided provides some overlap, this one for crimes on the high seas and "out of the jurisdiction of any particular state". **Section 8** fits well into this category, stating (italics added):

"That if any person or persons shall commit *upon the high seas*, or in any river, haven, basin or bay, *out of the jurisdiction of any particular state*, murder or robbery, or any other offence which if committed within the body of a county, would by the laws of the United States be punishable with death ; or if any captain or mariner of any ship or other vessel, shall piratically and feloniously run away with such ship or vessel, or any goods or merchandise to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate ; or if any seaman shall lay violent hands upon his commander, thereby to hinder and prevent his fighting in defence of his ship or goods committed to his trust, or shall make a revolt in the ship ; every such offender shall be deemed, taken and adjudged to be a pirate and felon, and being thereof convicted , shall suffer death ; and the trial of crimes committed *on the high seas, or in any place out of the jurisdiction of any particular state*, shall be in the district where the offender is apprehended, or into which he may first be brought." *Ibid.,* Pages 114 - 115

Obviously, if the crime occurred outside the jurisdiction of any particular State, no State by definition would have any jurisdiction of the crime (and thus there would be no constitutional

infirmary). Crimes upon the high seas falls within the express jurisdiction of Article I, Section 8, Clause 10) to provide for such criminal jurisdiction.

Another topic with overlap into which various sections of the 1790 act may fit is upon the high seas, or within a fort, arsenal, dock-yard, magazine, or other place within the sole and exclusive jurisdiction of the United States.

Sections 6, 13 & 16 fit well within this category. **Section 6** reads (italics added):

> "That if any person or persons having knowledge of the actual commission of the crime of wilful murder or other felony, *upon the high seas, or within a fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States*, shall conceal, and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars. *Ibid.,* Page 113

Section 13 reads (italics added):

> "That if any person or persons, *within any of the places upon the land under the sole and exclusive jurisdiction of the United States, or upon the high seas*, in any vessel belonging to the United States, or to any citizen or citizens thereof, on purpose and of malice aforethought, shall unlawfully cut of the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person in any the manners before mentioned, then and in every such case the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence aforesaid) shall on conviction, be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars." *Ibid.,* Page 115

Section 16 reads, in part (italics added):

> "That if any person within any of the places *under the sole and exclusive jurisdiction of the United States, or upon the high seas*, shall take and carry away, with an intent to steal or purloin the personal goods of another…shall, on conviction, be fined not exceeding the four-fold value of the property so stolen, embezzled or purloined ; the one moiety to be paid to the owner of the goods, or the United States, as the case may be, and the other moiety to the informer and prosecutor, and be publicly whipped, not exceeding thirty-nine stripes." *Ibid.,* Page 116

Discussion of this category will be delayed for a moment, as another category into which various sections of the 1790 act can be divided is that only of forts, arsenals, dock-yards, magazines, or other places under the sole and exclusive jurisdiction of the United States (but not pertaining also to the high seas).

Sections 3 and 7 of the 1790 act fit within this latter heading, with **Section 3** stating (italics added):

"That if any person or persons shall, within *any fort, arsenal, dock-yard, magazine, or in any other place or district of the country, under the sole and exclusive jurisdiction of the United States*, commit the crime of wilful murder, such person or persons on being thereof convicted shall suffer death." *Ibid.,* Page 113

Section 7 stating (italics added):

"And be it (further) enacted, That if any person or persons shall within *any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States*, shall commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars." *Ibid.*

The last section of the 1790 act within the category of primary interest is provided by Section 17, which is essentially a catch-all section, which covers "any part of the jurisdiction of the United States as aforesaid" which would thus extend to the criminal jurisdiction of the United States to any of the high seas or exclusive legislative jurisdictions. **Section 17** stated:

"That if any person or persons, within any part of the jurisdiction of the United States as aforesaid, shall receive or buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour or conceal any felons or thieves, knowing them to be so, he or they being of either of the said offences legally convicted, shall be liable to the like punishments as in the case of larceny before are prescribed." *Ibid.,* Page 116

As this section covers the "jurisdiction…as aforesaid", it obviously covered no new ground and can thus be crossed off the list of possible suspects.

The final category covered in the 1790 act dealt with the courts and court processes, which is not here relevant to the important topics which will be now expounded upon.

As counterfeiting, treason, piracy and felonies on the high seas and offenses against the laws of nations were all explicit grants of criminal authority within the Constitution; the various sections of the 1790 act which covered these topics were not topics being referred to by Justice Strong in *Knox v. Lee* when he wrote, regarding the April 4, 1790 and March 3, 1825 criminal acts of Congress:

"It might be argued that the expression of these limited powers implies an exclusion of all other subjects of criminal legislation…Yet Congress…defined and provided for the punishment of a *large class of crimes other than those mentioned in the Constitution*, and some of the punishments prescribed are manifestly not in aid of any single substantive power."

Knox v. Lee, 79 U.S. 536.

There are thus only two possible categories or topics of criminal legislation to which Justice Strong could have possibly referred, that regarding and involving court processes, and that dealing with the exclusive legislative jurisdiction of the United States and dealing with forts, magazines, arsenal, dock-yards, and other needful buildings.

Since Justice Strong did not mention any of the many different legislative acts which instituted the courts and dealt with court procedure, this topic should be able to be safely ruled out and disregarded.

By the process of elimination, the "large class of crimes other than those mentioned in the Constitution" discussed by the 1790 criminal act to which Justice Strong was referring was that class dealing with the exclusive legislative jurisdiction for the seat of the government and like authority for all places purchased with the consent of the State legislatures for forts, magazines, arsenals, dock-yards, and other needful buildings.

The first critical point to mention for countering Justice Strong's innuendo was that this large class of crimes was actually well-authorized by the Constitution.

Although the specific criminal jurisdiction for forts, magazines, arsenals, dock-yards, and other needful buildings is not specifically mentioned in the Constitution, the Constitution nevertheless acknowledges it, stating, in **Article I, Section 8, Clause 17** of the **Constitution**:

> "Congress shall have Power…To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings".

One can easily see that while this clause does not explicitly discuss any express *criminal* jurisdiction, it does, however, explicitly discuss the "exclusive Legislation in all Cases whatsoever", to which "all Cases" would naturally extend to criminal as well as civil jurisdiction.

Article I, Section 8, Clause 17 of the Constitution for the United States of America is the single most important clause within the entire Constitution for understanding how government, since the Civil War period, has appeared to operate superior to and independent of the Constitution, all while actually conforming quite well to it.

Before getting into this constitutional clause which is vital, crucial, and absolutely imperative to understand for learning how government appears to act superior and independent to the Constitution (while actually conforming fully with it), it is perhaps first best to quickly glance at the March 3, 1825 criminal act to which Justice Strong also mentioned in *Knox v. Lee*, just to get that out of the way (seeing if it alluded to anything different than the 1790 act).

Section B: 1825, March 3 Act

The pertinent sections of the **March 3, 1825** act are hereinafter briefly listed in only in the relevant part (all with italics added):

Section 1:

> "That if any person or persons, within any *fort, dock-yard, navy-yard, arsenal, armory, or magazine, the site whereof is ceded to, and under the jurisdiction of, the United States, or on the site of any lighthouse, or other*

needful building belonging to the United States, the site whereof is ceded to them, and under their jurisdiction, as aforesaid, shall, wilfully and maliciously, burn any dwelling-house, or mansion-house, or any store, barn, stable, or other building, parcel of any dwelling or mansion-house, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death."

Volume 4, Statutes at Large, Page 115

Section 2 begins:

"That if any person or persons, *in any of the places aforesaid*..." *Ibid.*

Section 3:

"That, if any offence shall be committed *in any of the places aforesaid*, the punishment of which offence is not specially provided for by any law of the United States, such offence shall, upon a conviction in any court of the United States having cognisance thereof, be liable to, and receive the same punishment as the laws of the state in which such *fort, dock yard, navy-yard, arsenal, armory, or magazine, or other place, ceded as aforesaid*, is situated, provide for the like offence when committed within the body of any county of such state." *Ibid.*

Section 4 begins:

"That, if any person or persons, *upon the high seas*, or in any arm of the sea, or in any river, haven, creek, basin, or bay, *within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state*, shall commit the crime of wilful murder…" *Ibid.*

Section 5:

"That if any offence shall be committed on board of any ship or vessel, belonging to any citizen or citizens of the United States, while lying in a port or place *within the jurisdiction of any foreign state or sovereign*, by any person belonging to the company of said ship, or any passenger, on (sic) any other person belonging to the company of said ship, or any other passenger, the same offence shall be cognizable and punishable by the proper circuit court of the United States, in the same way and manner, and under the same circumstances, as if said offence had been committed on board of such ship or vessel on any person *on the high seas and without the jurisdiction of such foreign sovereign or state* : *Provided, always*, That if such offender shall be tried for such offence, and acquitted or convicted thereof, in any competent, of such foreign state or sovereign, he shall not be subject to another trial in any court of the United States." *Ibid.* Pages 115 - 116

Section 6:

"That, if any person or persons, *upon the high seas*, or in any arm of the sea, or in any river, haven, creek, basin, or bay, *within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state*…" *Ibid.*, Page 116

Section 7:

"That, if any person or persons, *upon the high seas, or in any other of the places aforesaid*, with intent to kill…" *Ibid.*

Section 8:

"That, if any person or persons, *upon the high seas, or in any of the places aforesaid*, shall buy, receive, or conceal, or aid in concealing any money, goods, bank notes, or other effects or things which may be the subject of larceny…" *Ibid.*

Section 9:

"That, if any person or persons shall plunder, steal, or destroy, any money, goods, merchandise, or other effects, from or belonging to any ship or vessel, or, boat, or raft, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks, *of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States*…" *Ibid.*

Section 11:

"That, if any person or persons, shall, wilfully and maliciously, set on fire… any ship or vessel of war of the United States, afloat *on the high seas*, or in any arm of the sea, or in any river, haven, creek, basin or bay *within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state*…" *Ibid.*, Pages 117 - 118

Section 22:

"That, if any person or persons, *upon the high seas*, or in any arm of the sea, or in any river, haven, creek, basin, or bay, *within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state* …" *Ibid.*, Page 122

The 1825 act for punishing various crimes thus reads much like the 1790 act, and perhaps even more conspicuously details the admiralty and maritime jurisdiction of the United States for the high seas, as well as providing for (criminal) jurisdiction within the exclusive legislative jurisdiction of the United States for forts, magazines, arsenals, dock-yards and other needful buildings.

As one can see from this listing of relevant sections, both the 1790 and 1825 acts providing for the punishment of crimes against the United States dealt with the "large class of crimes other than those mentioned in the Constitution", as detailed by Justice Strong, were actually yet fully constitutionally-authorized.

Section C: Article I, Section 8, Clause 17

It is now appropriate to delve more deeply into **Article I, Section 8, Clause 17** of the **U.S. Constitution**, which again reads:

"Congress shall have Power…To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may,

> by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings".

The key principle of this clause is the ability of Congress to "exercise *exclusive* Legislation in all Cases whatsoever" over the seat of the government and "to exercise *like Authority*" over all Places purchased by the Consent of the Legislatures of the State for forts, magazines, arsenals, dock-yards, and other needful buildings.

The basic, underlying principle to understand with these Article I, Section 8, Clause 17 properties is that these limited geographic areas are the only places within the United States of America where <u>one</u> government now has all governing authority (territorial governments will be looked at briefly in Chapter 12). Elsewhere, government authority is divided into either federal or State jurisdiction according to the divisions outlined in the U.S. Constitution.

Article I, Section 8, Clause 17 acknowledges the exclusive legislative jurisdiction for the seat of government (and like authority for areas within the States purchased for forts, etc.); the remainder of the Constitution is then the guidebook for which Congress must follow when enacting laws for all the States united.

In the "United States" as they are commonly understood, Congress enacts laws under the enumerated powers of the Constitution and the States handle the remainder of powers appropriate to American government, in proper conformance with the Constitution and the explicit principles of the 10^{th} Amendment.

However, in the Article I, Section 8, Clause 17 exclusive legislative jurisdiction properties, in specific instances where a State specifically consented to the voluntary withdrawal of State governing authority, the governing jurisdiction of these federal enclaves lies only with Congress. Congress not only owns these lands (Art. I:8:17 requires "purchase"), but governs them exclusively as the *only* government for these areas (think of American embassies in foreign lands, even though they are surrounded by foreign soil [with foreign laws having no bearing on the embassy grounds]).

Congress not only have their powers as detailed by the Constitution in the remainder of the constitutional clauses, but here in these federal enclaves Congress act somewhat akin as a local legislature as elsewhere would a State, county or local municipal body (because Art. I:8:17 vests these local powers in Congress for these exclusive legislation areas [regardless if Congress have delegated some home-rule type of authority to a mayor, commissioner, and/or council, or other type of local D.C. authority]).

It should be noted that the western public lands of the United States are <u>not</u> under the exclusive legislative jurisdiction of the United States. In these public land areas, the United States is merely the landowner (who failed their fiduciary duty to sell the public lands for debt reduction and to allow these western States to enter the Union on equal status with the original States in all aspects whatsoever) and the States retain their jurisdiction.

It should also be mentioned that not all forts or federal installations are Article I, Section 8, Clause 17 properties. In these exclusive legislative jurisdiction properties, the federal

government must not only own the property, but the State wherein the land is otherwise found must also have voluntarily and legally ceded its governing authority (recall the land purchase for the new Philadelphia mint in the March 3, 1891 mint act discussed earlier, where the State had to agree to their cession of jurisdiction).

In the 1790 and 1825 criminal statutes above detailed, if the sections which detailed crimes such as murder, manslaughter, robbery, etc. were meant instead to operate outside of this exclusive legislative jurisdiction and throughout all the United States, Congress, in enacting that legislation, would have violated the constitutional separation of powers between Congress and the States. However, by limiting those statutes to only that appropriate jurisdiction, no constitutional infirmary was created (as Justice Strong acknowledged in *Knox v. Lee*)

Thankfully, the vast predominance and much of the whole charade of omnipotent government, of government appearing to operate beyond the Constitution, only legally operates in these exclusive legislative jurisdictions where Congress are enacting local laws and the normal constitutional limitations on federal government power which are meant to operate throughout all the States do not apply.

The U.S. government operating in apparent excess of the Constitution is based upon this simple concept (of course, the details get rather complicated).

For example, recall the February 25, 1862 act which made the new United States notes "lawful money and a legal tender in payment of all debts, public and private" explicitly "within the United States". 12 Stat. 345

Or the July 11, 1862 act which likewise made United States notes lawful money and a legal tender in payment of all debts, public and private, within the United States". 12 Stat. 532

Or the March 3, 1863 act which treasury notes "may be made a legal tender to the same extent as United States notes". 12 Stat. 710

Supporting the holding of treasury notes and United States notes as "legal tender" in court is then as simple as holding the phrase "within the United States" in the given otherwise-oppressive legislative acts to mean only the exclusive legislation jurisdiction for the seat of government (forts, etc.).

Poof, it is that simple and it is fully constitutional because it does not violate the Constitution.

Of course, those same words "within the United States", such as found in the foreign coinage acts of April 29, 1816, June 25, 1834, or June 28, 1834 (Chapter 96) mean what one would normally think of them, within the United States of America. Thus, one must always look to the use of the words in any given act to find their true meaning. If the use of the words cannot signify powers meant for the whole country under the Constitution (to avoid constitutional conflict), then they *must* have the more limited meaning for the seat of government.

The giving of a word or phrase a limited legal definition, to change the meaning of things, allows people to be made the dupes of sounds. When people hear a word, term, or phrase, their mind naturally jumps to the common (but here incorrect) meaning. They soon lose track of what is going on, because their mind has jumped to the wrong conclusions. Next they start

questioning their understanding of the limitations on Congress, start asking how government can ignore the Constitution as it does with impunity, how the Courts became a power unto themselves, etc.

As one can see, Congress <u>are</u> acting within the express parameters of the Constitution (and thus their actions cannot be considered unconstitutional or illegal), they are just not acting under those clauses thought by those failing to comprehend what is going on (who thus necessarily fight a losing battle due to their lack of comprehension).

Of course, that doesn't mean the courts, Congress, or others in government (or in any private industry which benefits from such a holding) go out of their way to disclose the facts of the matter.

If a word or phrase can have multiple meanings, the Court will hold the meaning to be the one which avoids constitutional infirmary (only don't expect full disclosure); if they hold it to the normal meaning, then they would have to declare the act unconstitutional as it would violate the Constitution.

The land for the seat of the government, the District of Columbia, is no longer "within" any State. This land area "not exceeding ten Miles square" was once part of a State, but no longer (actually, both Maryland and Virginia originally ceded lands for the seat of government, but in 1846, the Virginian lands of Alexandria county were re-ceded back to that State "and all the rights and jurisdiction therewith ceded over the same, be, and the same are hereby, ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside thereon"). Volume 9, Statutes at Large, Page 35 @ 36.

Normal constitutional restrictions pertinent to States do not apply to the exclusive legislative jurisdiction areas, for this governing authority is not "a State" as understood by the Constitution.

Electors

Let's look at the process for electing the President, for example. Since so much of the Constitution actually discusses the election process for electing the President, the evidence here of this mechanism is compelling.

Article II, Section 1, Clause 2 of the Constitution details that "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" for electing a President of the United States.

Clause 3 then details the process by which the chosen electors in each State will select the President (though it is well beyond the scope of this book, please realize the Electoral College is yet one of two areas [ratifying amendments/attending conventions being the principal] which yet properly supports actions by States. If the Electoral process were ever sadly replaced with a national popular vote, there would be one less reason for existence of States. Much better is it to properly restrict the federal government acting on the people — i.e., to enforce the Constitution [and not further tear it down!]).

Clause 4 then weighs in next on the matter of electing the President, as does the 1804 Twelfth Amendment, the 1868 Fourteenth Amendment, the 1920 Nineteenth Amendment, 1933

Twentieth Amendment, 1951 Twenty-second Amendment, the 1964 Twenty-fourth Amendment, and the 1967 Twenty-fifth Amendment.

However, it is the 1961 **Twenty-Third Amendment** which best illuminates the election of the President for our present purposes, reading (italics added):

> "Section 1. The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:
>
> "A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled *if it were a State*, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.
>
> "Section 2. The Congress shall have power to enforce this article by appropriate legislation."

Before the 1961 23rd Amendment, residents of the District of Columbia had no say whatsoever in electing the President, because they were not a State and thus could not appoint electors. No resident of the District of Columbia before the 23rd Amendment choose electors for electing the President.

Only because of the 23rd Amendment, now the "District constituting the seat of government of the United States" is allowed to choose the number of electors (but never more than the least populous State) to which the District would be entitled "if it were a State"; <u>but the District constituting the seat of government, of course, is emphatically not a State</u>.

One must realize that it took an actual Amendment to the Constitution to empower residents of that federal district to appoint electors, because it was the Constitution itself which specified that only States may appoint electors.

Thus, because constitutional restrictions cannot be ignored by Congress, over-ruled by the Courts, nor superseded by the President, it was the States which had to authorize the change (in the form of an amendment).

This is because the Constitution imposes hard and fast rules by which the branches of government created under it cannot ignore or overrule, but must abide.

The District of Columbia, the Seat of the Government, is governed under the exclusive legislative jurisdiction of Article I, Section 8, Clause 17, but it is emphatically not a State.

The seat of government was not "a State" for purposes of appointing presidential electors, but, after 1961, was treated for this single, express purpose as "if it were a State".

Neither is the district constituting the seat of government "a State" to which various prohibitions on States operate, including the prohibition of any State from emitting bills of credit and the prohibition of any State from making any thing other than gold and silver coin a tender in the payment of debts!

Stated again because of its extreme importance, the district constituting the seat of government is not "a State", and thus the various prohibitions which operate on States do not operate on the seat of government, including the prohibition of any State from emitting bills of credit and from making anything other than gold and silver coin a tender in the payment of debts.

These express prohibitions of Article I, Section 10, Clause 1 do not apply here in the District of Columbia (as found by the Legal Tender court cases) because the seat of government is not a State!

Support of legal tender paper notes rests upon this simple concept of jurisdiction.

The States united have their money of account denominated in dollars. "Dollars" are only coins of gold and silver in specified purity at their specified weight as shown herein under Chapter 6.

The United States, defined only as the exclusive legislative jurisdiction area of Congress for the seat of government, also has its own money of account (since 1862), also denominated in "dollars". These dollars here include demand treasury notes and United States notes, which were here made a legal tender under the act of February 25, 1862 (and later Federal Reserve notes).

Legal tender paper dollars are only legal tender within the District of Columbia, within the exclusive legislative of the United States, for the government of the United States.

Canadians also have their money of account denominated in dollars, as do the following countries: Hong Kong; Singapore; Australia; New Zealand; Barbados; Fiji; the Bahamas; Cayman Islands; Bermuda; Jamaica; Solomon Islands; the Eastern Caribbean countries with their collective Eastern Caribbean dollar currency (for St. Christopher and Nevis, Antigua and Barbuda, Montserrat, Dominica, St. Lucia, St. Vincent and the Grenadines, and Grenada); Trinidad and Tobago; Cook Islands; Belize; Liberia; Guyana; Brunei; Nambia; and Zimbabwe.

Do not make the mistake of thinking the "dollars" of all these different, foreign countries are the same as the dollar of the United States, simply because they use the same name for their monetary unit.

Likewise, do not think the dollar of the (exclusive legislative jurisdiction of the) United States is the same as the dollar of the United States of America just because the monetary units have the same name, for the geographic areas are actually foreign to or different from one another and have differing rules for enactment of law.

Do not underestimate the damage which may occur when people are made the dupes of sounds, as names become substituted things. When things are made purposely confusing to gain political advantage, extra care must be exercised to maintain and especially to restore proper clarity. This is because that which is based upon simple deception actually gets quite intricate and very involved in its implementation.

Of course, once it is exposed for what it is, it is much easier to recognize. There is no more believing the wizard has unlimited powers once the curtain is pulled back. What is being done to transform the legal currency of the United States is the same which is being done elsewhere.

In *Knox v. Lee*, Justice Strong, regarding the legal tender acts of Congress, stated "We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money."

Though Justice Strong stated a few things upon which the court did NOT rest the validity of the acts upon, he did not explicitly state what it was which they did actually rest their validity.

He did provide a clue, however. His clue was his mention of the alternate criminal jurisdiction of the United States (other than as detailed explicitly in the Constitution), as found in the 1790 and 1825 acts for punishing crimes.

Justice Strong's reference to the "large class of crimes other than those mentioned in the Constitution" committed within the exclusive legislative jurisdiction was spot-on in his legal tender opinion because this is precisely the same jurisdiction upon which the issuance of legal tender notes the court was then examining were issued and <u>upon which the court now rested their validity</u>.

As Justice Strong stated, no one doubted that the 1790 and 1825 criminal acts properly provided for criminal punishments for the seat of government and forts as Congress enacted local laws for areas not States, and now the *Knox* court was saying that the seat of government was not a State and thus this area was not subject to the same monetary prohibitions as were placed upon States (because the Seat of Government is emphatically not a State).

The *Knox* court obliquely stated that the constitutional limitation on States making anything but gold and silver coin a tender in payment of debts did not pertain to the District of Columbia, and that this government *here* could emit bills of credit and declare them a tender under this jurisdiction.

That Congress were able to exercise powers for the seat of government as elsewhere would be provided by States was not held to mean that Congress should also be limited to the new limitations of powers prohibited the States (because Congress was not a State legislature).

That the Congress enact such deceptive "law" in the first place, with the approval of the President who is charged to preserve, protect and defend the Constitution, only for the courts to rule in such a decidedly deceptive manner is a black stain on government unworthy of all respect.

At a minimum, after correcting matters, the history books should at least properly note such underhanded techniques to steer our constitutional ship toward the plunging waterfall.

In *Mattingly v. District of Columbia*, the supreme Court wrote "Congress may legislate within the District, respecting the people and property therein, as may the legislature of any State over any of its subordinate municipalities." 97 US 687 @ 690, 1878.

A Senate document expresses the following; "This clause confers upon Congress absolute authority and control over the District of Columbia...By this clause Congress is given exclusive jurisdiction over the District of Columbia for every purpose of government, national or local, in all cases whatsoever, including taxation." Senate Documents, Volume 3, 67th Congress, 2nd Session, Pages 230 and 233, 1922.

The Congressional Research Service of the Library of Congress at request of the Senate periodically prints an analysis and interpretation of the Constitution of the United States of

America. Regarding the exclusive legislation jurisdiction for the seat of the federal government, staff wrote:

> "Congress possesses over the District of Columbia the blended powers of a local and national legislature. This fact means that in some respects ordinary constitutional restrictions do not operate."
>
> Senate Document #108-17: *The Constitution of the United States of America, Analysis and Interpretation*. 2nd Session, 108th Congress, Congressional Research Service, Library of Congress. Government Printing Office, Washington: Page 354. 2004.

Of course, even though the laws enacted by Congress for the District of Columbia only have true authority within those very confined boundaries, these laws nevertheless receive the sanction of federal law for their implementation. Thus, even while legislating for the District of Columbia:

> "Congress remains the legislature of the Union, so that it may give its enactments nationwide operation to the extent necessary to make them locally effective".
>
> *Ibid*., Pages 354 – 355.

The impact this above-quoted principle is almost beyond comprehension, at least when Congress intends to stretch their local powers beyond their limited geographical confines by this mechanism.

What if, with Congress correctly remaining the legislature of the Union, they improperly concentrate on the giving of their local enactments "nationwide operation" but don't necessarily put a whole lot of emphasis on the latter part, "to the extent necessary to make them <u>*locally*</u> *effective"?*

This is precisely the case which has been occurring since the Civil War, as the federal government has slowly expanded into every aspect of American society through this misunderstood means, by giving their local enactments nationwide operation, while putting little emphasis on the critical part "to make them locally effective" (just making them "effective").

For example, when Congress began issuing legal tender notes during in 1862, this was legally a local legislative act for the District of Columbia. Of course, Congress didn't openly declare this, instead making the notes a legal tender "within the United States", with the United States legally only meaning the District of Columbia. This is what the *Knox* court admitted, though not in so many words.

If the *Knox* court did not hold "the United States" to mean only the District of Columbia, but instead all the States of the Union united under the Constitution, the court would have had to declare the act imposing legal tender notes unconstitutional, for nothing more than gold and silver coin may be declared a tender for the United States of America.

By holding "the United States" to mean the District of Columbia, however, the legal tender acts were allowed to remain and legal tender notes were then allowed to continue to circulate.

It didn't matter that the notes were really only a legal tender in the District of Columbia, what mattered was that there was a legal method to prevent them from being declared unconstitutional, thereby allowing them to circulate (everywhere).

While some persons may doubt that such local laws enacted by Congress for the District of Columbia are "laws of the United States" within the meaning of Article VI, Clause 2 of the Constitution (making them part of the supreme law of the United States), the courts have held otherwise, from the era even well before Article I, Section 8, Clause 17 had begun to be used improperly.

In the 1821 supreme Court case of *Cohens v. Virginia* (19 U.S. 264 @ 424), the Court writes, Congress:

> "necessarily preserve the character of the legislature of the Union, for it is in that character alone that the Constitution confers on them the power of exclusive legislation".

Article I, Section 8, Clause 17, after all, is found within the same section as the remainder of the express and enumerated powers of Congress.

The main point to understand is that Congress "is not a local legislature, but exercises this particular power, like all its other powers, in its high character as the legislature of the Union." *Ibid*., Page 429.

The *Cohens* Court corrected the thought (at pages 424 and 425) of "Those who contend that acts of Congress, made in pursuance of this power, do not, like acts made in pursuance of other powers, bind the nation", since "Congress legislates in the same forms, and in the same character, in virtue of powers of equal obligation, conferred in the same instrument" (at page 426).

In summation, the *Cohens* Court stated:

> "If Congress be not equally incompetent, it is because that body unites the powers of local legislation with those which are to operate through the Union, and may use the last in aid to the first, or because the power of exercising exclusive legislation draws after it, as an incident, the power of making that legislation effectual, and the incidental power may be exercised throughout the Union, because the principal power is given to that body as the legislature of the Union."
>
> *Cohens v. Virginia* (19 U.S. 264 @ 427 and 428)

In *Pollard's Lessee v. Hagan*, the opinion of the supreme Court states:

> "the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a state or elsewhere, except in the cases in which it is expressly granted....Within the District of Columbia, and the other places purchased and used for the purposes above mentioned, the national and municipal powers of government, of every description, are united in the government of the union. And these are the only cases, within the United States, in which all the powers of government are united in a single government, except in the cases already mentioned of the temporary

territorial governments, and there a local government exists." 44 US 212 @ 223 & 224, 1845.

A brief history of the District of Columbia will be useful for understanding this clause. The land which became the seat of government was formerly within Maryland (and originally also Virginia). Various owners of land "conveyed the land in trust" over to a trustee, which trustee watched over the transfer of the land "for the use of the United States forever."

A report published by a subcommittee of the House of Representatives detailed that:

> "The owners of the land, in consideration of the great benefit they expected to derive from having the Federal city laid off upon their lands, etc., entered into a preliminary agreement."
>
> *Origin and Government of the District of Columbia*, committee on the District of Columbia, House of Representatives, printed by the Government Printing Office in 1909.

The report relayed how the land was to be divided:

> "The deed in trust directed that a fair and equal division should be made of the land not taken for streets, squares, parcels, and lots for the use of the United States." *Ibid.*

There were 6,110.94 acres within the proposed district (not over ten miles square [a little over three miles on each side of the square]). 3,606 of these acres were donated to the United States for "avenues, streets, and alleys." A total of 20,272 lots were platted on 1,963.94 acres, half of them going to the original land owners, half being donated to the United States. The United States sold its share of these individual lots and used the proceeds to buy the remaining 541 acres "for public buildings and use." The report summarized this financial transaction as:

> "Thus the United States not only got without cost the fee simple in the streets and avenues and the sites and grounds for the Capital and other public buildings, but received a large amount of money from the net proceeds of the sales of the alternate building lots apportioned to it." *Ibid.*

Various types of governmental control have occurred in the District of Columbia; a municipal corporation, board of commissioners, a mayor, etc. The main point to remember is:

> "That all governmental activities for the District of Columbia must remain subject to ultimate control by Congress because of the constitutional authority over the District is vested in that body. Any such delegation of authority to a local government is always subject to such control."
>
> *Organization of the District of Columbia*, preliminary report of the subcommittee on Home Rule and Reorganization of the Committee on the District of Columbia pursuant to House Resolution 195 and 228, November 2, 1947.

Just because the District may be governed by a local governing body in no way limits Congress from acting whenever they choose (no local body could limit Congress).

Chapter 12: The Great Deception

> “Wherever such things require much labor, time, and reflection, the greater number, who do not know, are made the dupes of the lesser number, who do.”
>
> Treasurer of the Confederate Congress, Robert Morris, January 15, 1782.

> In no other country are “men less liable to be the dupes of sounds”, in no other country “has authority so little resource for substituting names for things.”
>
> Secretary of the Treasury, Alexander Hamilton, January 28, 1791.

> “It is so hard for any man, be he merchant, or be he drayman, to be content with his earnings — we are all so anxious to become rich in a hurry, that we are readily become the dupes of one another, and sometimes in our haste we dupe ourselves”.
>
> William M. Gouge, *A Short History of Paper Money and Banking in the United States*, Printed by T. W. Ustick, Philadelphia. Part II, Page 173, 1833.

Although the United States were effectively sidetracked from their proper monetary base of gold and silver coin with the institution of legal tender notes in 1862 (issued within the exclusive legislative jurisdiction, but circulating everywhere for lack of understanding their limited legal tender status), it was not until 1933 that things plummeted downhill rather quickly (by not letting a good crisis “go to waste”).

During the depth of the Great Depression occurred perhaps the greatest monetary swindle ever perpetrated upon any people.

Unfortunately, as Morris alludes, it does require a fair amount of introspective effort to understand its intricacy. Key parts of the deception resulted from the substituting of names for things, so that one’s mind naturally jumps first to the wrong conclusions.

Sadly, the resultant devastation which occurred through such economic tyranny generations ago did not then lead to the rooting out of a growing evil, but only greater calls for even more government action “to do something”. Those doing the greatest damage even became those most beloved.

Such history does not bode well in foretelling what will happen in our own future when the inevitable consequences of the omnipotent welfare-warfare state grown since that time come due and the piper must be paid his compounding interest which grows at exponential rates.

Perhaps the saving grace will then be the internet, with its great decentralization in the means of communicating vast amounts of information, such that independent-minded people may investigate on their own and communicate with others of like minds to expose the actual problems and propose real solutions.

May each of us follow the lead of Toto and sniff out thoroughly all that smells funny and help pull back the curtain to expose the fraud…

Of course, fraud is not only attempting to deceive, but also attempting to cover it up. Thus, not wanting to go to jail, government officials in the know generally tend to follow a very fine line of not really covering things up, occasionally even leaving a few clues here and there for those perceptive enough to follow along.

Section A: 1933, March 6 Proclamation No. 2039

On March 4, 1933, America's most dangerous President — as far as damage to the Constitution under his watch is concerned — Franklin Delano Roosevelt, took his oath of office as required by the Constitution (Article II, Section 1, Clause 8).

This first action of oath-taking of the four-term Democratic President may well have been his last which truly followed the letter and spirit of the Constitution (not that Congress were then any better, just that the President is the only person charged in his oath to "preserve, protect and defend the Constitution" [and thus the "buck" must stop with the President when he signs his name to acts of Congress {and especially regarding actions of his own accord}]).

On March 6, 1933, President Roosevelt proclaimed his presidential proclamation number 2039, which cited authority of the Section 5 (b) of the act of October 6, 1917 (as amended), to proclaim a banking holiday from March 6 through March 9, 1933 (inclusive).

This "holiday" provided the many banks a welcome reprieve from their long line of depositors lining up at the bank's doors to withdraw their funds at the banking window, at least until the government could come up with a proposed bail-out solution.

President Roosevelt's proclamation first stated that "withdrawals of gold and currency from our banking institutions for the purpose of hoarding" were not only "heavy", but "unwarranted".

In other words, President Roosevelt and others of like-mind operated from the basic supposition that private citizens were somehow obligated to store their gold and paper currency in banks (then without deposit insurance), even if the banks were insolvent.

Not only that, but that individual citizens who sought to better protect their assets by withdrawing their own money created "a national emergency" through which it became necessary for the government to begin in earnest taking over the whole economy.

In this author's view, if banks mismatch funds (borrow for a short term and lend long term) such they suffer a liquidity crisis because they previously lent too much money through fractional reserve banking and now too many people seek to withdraw their deposits which are no longer safe, it is the banking industry which must change and not our monetary system of gold and silver coin.

President Roosevelt stated that it was "in the best interests of all bank depositors" that a "period of respite" be provided, which would permit "the application of appropriate measures to protect the interests of our people".

If the actions which followed were truly done "to protect the interests of our people", one must ask, *who exactly were those people of his whose interests were actually protected*?

Under such forms of "protection", the United States were transformed into a country of government thugs ruling with near-absolute authority, a tyrant's dream.

Sadly, this proclamation was the merely the first, the least, but hardly the last of far more oppressive actions yet to come.

Section B: 1933, March 9 Act

The act of March 9, 1933 was enacted for the stated purpose to "provide relief " for banks. While it provided relief for banks, it certainly did so at an extremely high cost to all others concerned, proper limitations of law included.

Congress, in their March 9, 1933 act, first "approved and confirmed" the actions taken by the President since March 4, 1933, regarding his actions stated to be pursuant to Section 5 (b) of the act of October 6, 1917, as amended.

Not only did Congress approve the President's actions "heretofore" taken, but they curiously and specifically "approved and confirmed" any actions, regulations, rules, licenses, orders and proclamations "hereafter taken" (at least pursuant to the stated authority).

This shows a surprising level of confidence in the President indeed, complete approval of any action the President should take in the future pursuant to the stated authority of Section 5 (b) of the act of October 6, 1917, as amended.

Has any despot ever asked for greater backing from any puppet legislature than to sanction in the present any action he should take in the future?

Regardless of how it actually read on March 6, 1933, now Section 5 (b) of the act of October 6, 1917 was amended to read, by **Section 2** of the **March 9, 1933 act**:

> "(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation."

The lengthy first sentence of this dreadful paragraph has 152 words. There are 21 commas and one semi-colon. The word "or" marking an alternative is used 13 times, the conjunction "and" is used three times, and the permissive "may" is used four times.

Obviously, not only was very little care taken to simplify and elucidate, but more likely a fair amount of effort was expended for a very particular legal effect, which, if general confusion was created in the process, so much the better.

With such passage, Congress nominally provided the supposed legal basis for the President, on his whim, to do most anything he wants (obviously, if he can declare a national emergency on his discretion and institute such actions as followed, then he is quite powerful indeed).

It is important to remember that the October 6, 1917 act was known as the "Trading with the enemy Act" (by express statement within the first sentence of the act) and the actions therein described fit the title fairly well.

The term "enemy" also seemed fairly well defined in the 1917 act, dealing with *foreign* individuals, businesses or governments with which the United States were at war, who were "resident *outside* the United States" or "incorporated within any country *other than* the United States".

With that said, *of what interest* — other than for the obviously-devious purposes for which it was ultimately used — *did it make for the March 9th act to amend the Trading with the enemy Act to then seek to regulate and even prohibit domestic ownership of gold coin, bullion, or currency?*

That such scheming tends to follow human nature is thus precisely the reason for extremely limiting the power and potential influence of government (to attempt to have some of the good, with little of the harm).

The framers of the Constitution understood that men are not angels and that high government service tends to draw the arrogant and the power-thirsty; thus the reason for using the "chains" of the Constitution to "bind" the government down to allow government action only for express, limited purposes.

The wonderful benefit of limited government is that it does not seek to become all things to all people. Thus, limited government tends to be rather dull and boring, and does not excite the people nor enter into every aspect of society. Importantly, neither does it then necessarily draw those who thirst for power and influence, because there is none extra for them to exploit to their advantage.

Government under the Constitution was never meant to be center-stage. That government today is front and center on so many varied topics and for so much activity simply provides convincing evidence that the Constitution is not adequately understood and subsequently is not properly enforced.

The President in the March 6th act was nominally empowered to "regulate…hoarding…of gold or silver coin or bullion, or currency, by any person within the United States or any place subject to the jurisdiction thereof."

A quick compare and contrast shows that this 1933 act does NOT read like the 13th Amendment and read "by any person within the United States or any place subject to *their* jurisdiction".

Perhaps it would have been a bit too obvious to have stated "and subject to *its* jurisdiction" when "the United States" actually meant and referred to their exclusive legislative jurisdiction of the government of the United States. The change of the phrasing to "the jurisdiction thereof " avoids the use of pronouns which disclose word form.

That the United States in these instances meant the singular jurisdiction for the seat of government and like authority for forts, magazines, arsenals, dock-yards, and other needful buildings will become more apparent as further issues of the 1933 and 1934 acts, orders, and proclamations are discussed.

It is certainly much easier to hold that Congress and the President are exploiting a gray area which relatively few persons seem to follow, than to hold that Congress and the President may actually do whatever they want, whenever they want and the Constitution offers no real protections.

Neither is it that Congress may actually do whatever they want in their exclusive legislation areas, it is simply that people fighting otherwise oppressive acts of Congress have the best chance for success when they are at least on the right page for fighting that oppression.

Correctly fought, many battles even within the exclusive legislative jurisdiction areas will undoubtedly trim the local powers of Congress considerably.

The point is, even if many local acts of Congress enacted over the last 140 years are some day trimmed, outside the exclusive legislative jurisdictions today, these local acts have no inherent applicability now (except as they effectuate local law).

Section 2 of the March 9, 1933 act amended the Trading with the enemy Act, yet President Roosevelt specifically acknowledged the March 9th modification to the 1917 act in his quoted authority. Reading the March 9th modification, one sees that it was specifically written to provide the President with the presumed authority to act as he did with presidential proclamation number 2040 and especially executive order number 6102 (both discussed below).

Since the March 9th modifications were actually the pivotal source of the President's authority, *why didn't the March 9th act simply enact those same words within its own authority*? *Why did it necessarily amend the 1917 act* (the rest of which otherwise had little or nothing to do with the topic of Section 2 of the March 9, 1933 act)?

In other words, what was so special about the 1917 act that it was amended?

These questions will be examined shortly. It is first important to further examine the matter (after first looking into a few other actions for better perspective).

Section C: 1933, March 9 Proclamation No. 2040

On the same day as President Roosevelt signed into effect the March 9th act, he issued Presidential proclamation number 2040, continuing in effect his March 6th Proclamation

declaring a banking holiday. This latest proclamation now claimed authority under the October 6, 1917 Trading with the enemy Act, as amended by the March 9, 1933 act.

Section D: 1933, April 5 Executive Order No. 6102

On April 5, 1933, President Franklin D. Roosevelt issued his infamous executive order number 6102, which nominally, ostensibly and supposedly prohibited citizens from "hoarding" gold, from owning and having gold (whether in coin, in bullion, or in the form of gold certificates), other than in a few limited circumstances.

Executive order number 6102 began with a recitation of the President's stated authority to support his actions and then followed the outline of his primary course of action, and which read:

> "By virtue of the authority vested in me by Section 5 (b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes," in which amendatory Act Congress declared that a serious emergency exists, I, Franklin D. Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said section do hereby prohibit the hoarding of gold coin, gold bullion, and gold certificates within the continental United States by individuals, partnerships, associations and corporations and hereby prescribe the following regulations for carrying out the purposes of this order:"

President Roosevelt, by stating "By virtue of the authority vested in me by Section 5 (b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933" and further by his statement "pursuant to the *said* section", entirely rested his actions which followed (prohibiting the hoarding of gold within the continental United States by individuals, partnerships, associations, and corporations) upon this stated authority.

If such authority crumbles upon close inspection, so too would his actions necessarily crumble.

Since President Roosevelt took a fair amount of ink to also stress the fact that Congress declared that a "serious emergency exists" and that he also declared that "said national emergency still continues to exist" — *does this not then provide at least some support for a later period of time whenever the emergency should cease, that all the confiscated gold could then safely be returned to the original owners* (at least to the extent these owners redeemed Federal reserve notes yet in their possession for the gold)?

Since citizens were nominally prohibited from owning gold until 1973, does this signify that this "emergency" actually lasted forty years?

In the executive order, it is first important to understand that the President prohibited the hoarding of gold only "within the *continental* United States".

This is interesting, because recall the amended section of the March 9th act had specifically allowed government action anywhere "within the United States *or any place subject to the jurisdiction thereof.*"

Further, in Section 2 of the original 1917 act, the term "United States" was defined to mean:

> "all land and water, continental or insular, in any way within the jurisdiction of the United States, or occupied by the military or naval forces thereof".

Thus, by both the 1917 act and the 1933 amendment of it, the authority allowed the United States would not only extend to include land on the continent, but also the "insular" possessions of the United States, the other "places subject to the jurisdiction thereof."

The island possessions of the United States are those places over which the United States extends their jurisdiction (at that time, over the territories of the Philippine Islands, American Samoa, Guam, Panama Canal Zone, Puerto Rico, the U.S. Virgin Islands, and [before statehood], the Hawaiian Islands).

While the April 5, 1933 executive order did not expressly exempt the insular possessions (it just didn't reach them), its August 28, 1933 replacement, executive order number 6260, specifically did (in Section 7 [discussed later]).

Even though the island possessions of "the United States" would have otherwise fallen within the express parameters of that term (indeed, one would have to argue that the inclusion of the phrase "places subject to the jurisdiction thereof " would be the precise purpose for including mention of this phrase in the first place), here they were being spared operation of such oppressive acts which financially devastated the mainland.

Where they had greater constitutional leeway, Congress did not here extend the prohibition against ownership of gold. Precisely where they had greater power, they did not attempt to use it — this admits too much.

To better understand this admission, territorial forms of government should be briefly covered.

Since explaining how the government legally operates in excess of the Constitution is the over-riding purpose of this book (and the examination into the coinage acts then shows but one means of that end, in detail to prove the concept), it is not here altogether improper that some divergence be tolerated.

Thus we momentarily drift away from the coinage acts to better understand another of the roads where Congress may act with greater discretion than in normal constitutional situations (dealing with States).

Section E: Territorial Form of Government

The first territorial government instituted in the United States was that for the lands "Northwest of the River Ohio".

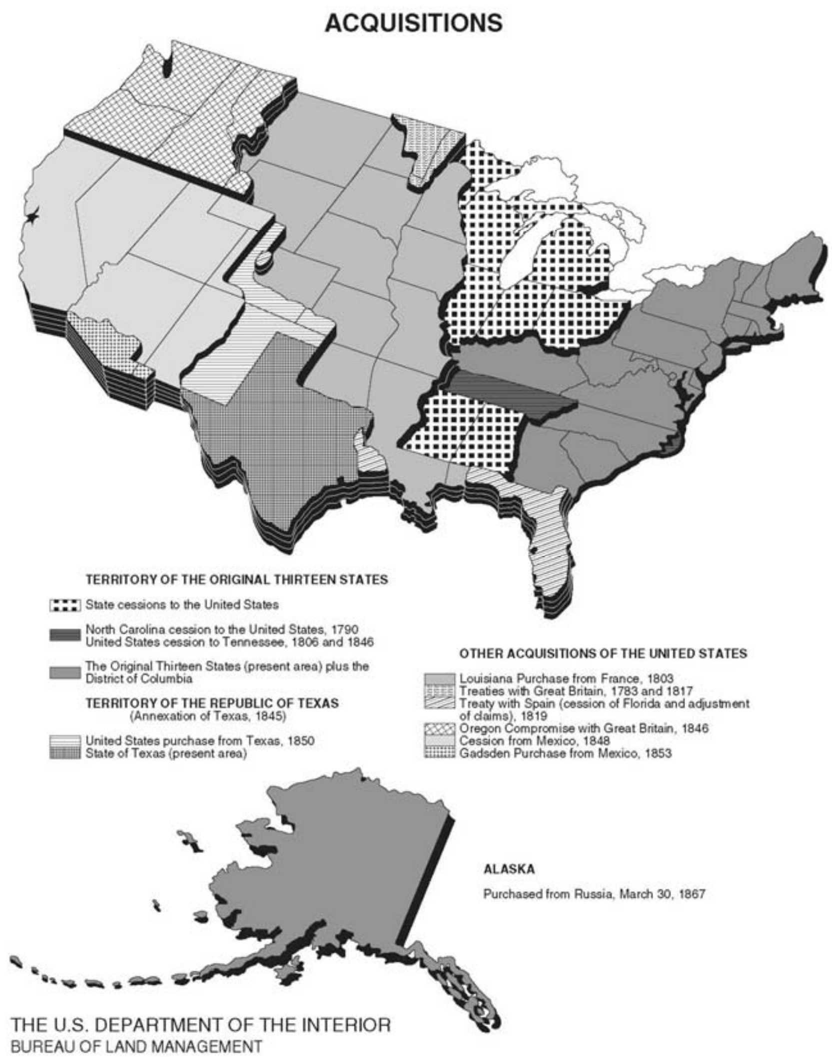
Seven of the 13 original States (Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina and Georgia) had western, unoccupied lands stemming from their colonial charters.

Ohio, Indiana, Illinois, Michigan, and Wisconsin were formed from these lands Northwest of the River Ohio, and small portion of the territory was later incorporated into Minnesota.

Though not land "Northwest of the River Ohio", but otherwise "western lands", Tennessee was later formed from cessions of North Carolina. The Mississippi Territory was constituted out of Georgia's western lands (out of which Alabama was also formed).

Kentucky and later West Virginia also formed from further cessions from Virginia (while realizing Virginia's earliest charters covered from the 34^{th} Parallel of North Latitude [Cape Fear, North Carolina] to the 45^{th} [Nova Scotia]).

As an aside and to finish detailing the origin of the remaining States east of the Mississippi (even though their origin was not from unappropriated, western lands), Vermont formed out of lands formerly claimed by New York and New Hampshire; Maine out of the original claims of Massachusetts; while Florida formed in 1845 from Spanish cessions never within the 13 original colonies.



The six of the remaining original States without western lands felt that their efforts at seeking independence from Great Britain were invaluable to that joint effort, and that the unoccupied western lands should thus be disposed of for the benefit of all the members of the Union, to help pay their mounting war debts.

Maryland felt so strongly that the unapportioned western lands be sold for the benefit of the Union that she refused assent to the Articles of Confederation until such an understanding was well-established.

On **September 6, 1780**, the Second Continental Congress issued their first resolution regarding western lands after the issue was discussed and decided upon, stating:

> "That it be earnestly recommended to those states, who have claims to the western country, to pass such laws, and give their delegates in Congress such powers as may effectually remove the only obstacle to a final ratification of the articles of confederation; and that the legislature of Maryland be earnestly requested to authorize their delegates in Congress to subscribe the said articles."
>
> Volume 17, Journals of the Continental Congress, Page 804 @ 807.

On **October 10, 1780**, Congress made a second formal resolution regarding such western lands, this time laying down the vital foundational principles by which these new lands would be treated:

> "*Resolved*, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular states, pursuant to the recommendation of Congress of the 6 day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, which shall become members of the federal union, and have the same rights of sovereignty, freedom and independence, as the other states…"
>
> Volume 18, Journals of the Continental Congress, Page 914 @ 915.

Complying with such requests, the delegates from New York ceded her western lands to the United States on March 1, 1781. Volume 19, Journals of the Continental Congress, Page 208 @ 213

With the cession of New York and the understanding that other States having western lands would follow suit, Maryland finally acceded to the Articles also on March 1, 1781.

Thereafter, the Congress of States were no longer loosely assembled, but assembled under the Articles of Confederation and Perpetual Union (the other twelve States had previously ratified the Articles).

Congress, under the Articles of Confederation, issued a third resolve on **April 18, 1783**:

> "That as a further mean, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States, it be recommended to the states which have passed no acts towards complying with the resolutions of Congress of the 6th of September and 10th of October, 1780, relative to the cession of territorial claims, to make the liberal cessions therein recommended, and to the states which may have passed acts complying with the said resolutions in part only, to revise and complete such compliance."
>
> Volume 24, Journals of the Continental Congress, Page 256 @ 259

On April 18, 1785, the deed to the western lands of Massachusetts was executed by her delegates. Volume 28, Journals of the Continental Congress, Page 271 @ 272

On September 13, 1786, Connecticut executed the Deed and Congress accepted, recorded and enrolled it among the acts of Congress the following day. Volume 31, Journals of the Continental Congress, Page 653 @ 654 - 655

On March 8, 1787, South Carolina empowered her delegates to "convey to the United States in Congress Assembled all the right of this State to the territory herein described", which they did on August 9, 1787. Volume 33, Journals of the Continental Congress, Page 466 @ 475 - 477

The fifth of the five of the States which ceded their claims to their Western lands to the United States under the Continental or Confederate Congresses was Virginia, saved for discussion last not only because her cession was the largest and most important, but also because the terms were best-delineated for the purpose of better delineating territorial governments.

The delegates of **Virginia** executed the said **Deed of Cession** and Congress recorded & enrolled it among their acts on **March 1, 1784**, reading, in part:

> "To all who shall see these presents, we Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, the underwritten delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting…
>
> "And…we…by virtue of the power and authority committed to us by the act of the said general assembly of Virginia before recited, and in the name, and for and on behalf of the said Commonwealth, do by these presents convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said states, Virginia inclusive, all right, title and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying and being to the northwest of the river Ohio, to and for the uses and purposes, and on the conditions of the said recited act."
>
> Volume 26, Journals of the Continental Congress, Page 109 @ 113 - 116, March 1, 1784

The "conditions of the said recited act", besides reserving up to 150,000 acres for bounty lands (the Virginia Military Bounty Lands) for payment for the regiment of General George Rogers Clarke, included the following (italics added):

> "The territory so ceded, shall be laid out and formed into…distinct republican states, and admitted members of the federal union; *having the same rights of sovereignty, freedom and independence, as the other states*."
>
> *Ibid*., Page 114

The other of the most important of the terms of cession included the following (italics added):

> "That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States, as have become or shall become members of the confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, *and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever*."
>
> *Ibid*., Page 115

As stated by Virginia, and as accepted by Congress, the Virginian lands of the Territory Northwest of the River Ohio were accepted by the United States for the express purpose of being used as "a common fund for the use and benefit…of the United States"; which area of land was to be "faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever".

The cession laws of the other four States ceding lands by 1787 mirrored not only the intent, but often the same general wording as Virginia. This intent precluded the United States from using the western territory for any other purpose than selling it for the twofold purpose of reducing the common war debts and to settle the lands so new States (at least three, no more than five) could enter the Union with the "same rights of sovereignty, freedom and independence, as the other states".

This admission acknowledges that even though Congress may exercise greater authority for the territories (as elsewhere would be performed by the State and local governments), this is but a temporary and transitional government until such a time as a State is formed and enters the Union (on an "equal footing in all aspects whatsoever" [as worded in the Northwest Ordinance of 1787 {32 Journals 342}]).

Section 22 of the August 4, 1790 act (1 Stat. 144) for the borrowing of money, it should be noted, stated that the "lands in the western territory, now belonging, or that may hereafter belong to the United States" would be used "towards sinking or discharging the debts" of the United States "and shall be applied solely to that use until the said debts shall be fully satisfied".

That the lands in the western territory would be sold "until the said debts" of the government "shall be fully satisfied" acknowledges a primary purpose of the western lands was for debt reduction.

By stating "lands in the western territory, now belonging, or that may hereafter belong to the United States", the 1790 act clearly anticipated that more western lands would belong to the United States at some point, other than the lands which currently belonged to them.

As stated earlier, five of the States with western lands had ceded them over to the United States under the Continental Congress or under the Congress assembled under the Articles of Confederation. Two States — North Carolina and Georgia — however, had not yet ceded their western lands by the time the Constitution was established.

The 1790 revenue act broke the lands into those that currently belonged to the United States and those which would later add to them, because this is also how the Constitution itself handled the issue.

Section 22 of the 1790 Act was not merely a judgment call by the First Congress (if solely within the discretion of one Congress, then later Congresses could come to their own independent judgment on public lands), it was the legislative enactment of a constitutional principle as well as a term of acceptance within the State cession deeds.

Article IV, Section 3 of the **Constitution** contains what is often referred to as the "property clause" of the Constitution. **Clause 2** states:

> "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

A literal reading of this clause with a broad understanding of the pertinent history provides the only consistent meaning of these words, in line with the stated purpose of using the western lands to pay off the war debts.

Many people today contend that Clause 2 supports the federal government indefinitely owning and "preserving" mind-numbing amounts of lands anywhere for national parks or other federal concerns outside Article I, Section 8, Clause 17 purposes.

Those who propose such meaning must overcome four insurmountable obstacles within the clause to support their contention, while also ignoring history.

A simplistic and inaccurate reading of this clause purports that Congress have the power to make all needful rules and regulations on the property belonging to the United States: i.e., that Congress can do darn near anything on any property they may own indefinitely.

The first major obstacle to such an understanding is the location of this power. It is not listed in Article I (Section 8) of the Constitution where the vast bulk of legislative powers of Congress are specifically listed and detailed.

Article I lists the legislative powers of Congress; Article II lists the executive powers of the President of the United States; and Article III lists the judicial powers of the supreme and inferior Courts.

Article IV, however, details various issues dealing with States. Only *incidental to such State issues* are members of Congress here empowered to act.

Section 3 of Article IV discusses, in Clause 1, new States being admitted into the Union. Clause 2 primarily deals with such territory or areas of land which had not yet met the necessary qualifications to become new States.

Article IV, Section 3, Clause 2 amounts to a grant of essentially temporary powers of Congress. Congress are to provide rules for these federal lands until sufficient lands have been sold and settled, such that State governments may then be formed (when population numbers in each territory reach minimum threshold levels).

The second barrier to a broad reading of the clause, consistent with its actual purpose as stated above, is that the phrase "to dispose of " is listed separately and *before* the power to "make all needful Rules and Regulations".

If Congress truly have the power to "make all needful Rules and Regulations" on any property they own indefinitely by this clause, then certainly this would include the power to sell it off. The power "to dispose of " would thus be a subset of the power to "make all needful Rules and Regulations" and would perhaps not even be listed or it would be secondarily mentioned.

That the disposal of such land is listed first emphasizes the actual purpose of the clause.

The third hurdle is the second part of the clause, that which is connected to the first part by a semi-colon and the conjunctive "and". It reads "; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State".

People who subscribe to the extended meaning of this clause have no answer for the meaning of these words.

People proposing an extended meaning only quote (out of all historical context) the first portion of the clause and act as if the second portion does not even exist.

The first portion of Clause 2 dealt with the property already ceded over to the United States, the second part dealt with the property not yet ceded — the western lands of only the two States which had not yet ceded them to the United States.

Had the last portion of Article IV, Section 3, Clause 2, not been inserted, North Carolina and Georgia could not have ratified the Constitution without compromising their claims of ownership to their unsettled lands.

This latter wording allowed the ratification of the Constitution by Georgia (January 2, 1788) and North Carolina (November 21, 1789) without compromising their claims to their western lands (and it as well maintained the United States' claim to their lands even after those State's ratification).

Congress accepted the western lands of North Carolina on April 2, 1790. I Stat. 106 @ 109

Georgia finally ceded her lands on April 24, 1802.

> *See:* American State Papers, Public Lands, Vol. I, 7th Congress, 1st Session, Senate Document #69 "*Georgia Cession*", Page 113 @ 114. April 26, 1802

The fourth barrier to extending Article IV, Section 3, Clause 2 beyond its strict wording is the singular nature of the wording ("Territory" rather than "Territories"; "other Property" rather than "other Properties"; [currently] belonging to the [United] States rather than any properties which will or may belong at some point in the future).

Article IV, Section 3, Clause 2 envisioned additional property being ceded to the United States — only the western lands in 1787 then within the boundaries of North Carolina and Georgia. It cannot be supported historically that this clause directly extends to other properties outside the bounds of the original colonies.

If this clause naturally extended to any future acquisitions of the United States, President Jefferson would not have experienced, as he famously did, any personal quandary whatsoever over the lack of appropriate constitutional authority of his Louisiana Purchase of 1803.

Though the federal government had the express power and authority to purchase (permanent) lands for Article I, Section 8, Clause 17 purposes (including "dock-yards", over which began the discussion which resulted in the Louisiana Purchase [for the purchase of the highly strategic dock-yards of New Orleans [in the neighborhood of one million dollars]), the government has no express power to purchase lands for other purposes.

When the whole of France's North American lands (some 756,961,280 acres) were offered for sale (the negotiated price being only $15 million, plus settling French claims owed to

American citizens [which totaled $3,738,269]), however, President Jefferson knew it was not only far too good of deal to pass up, but far too important for future expansion which would simultaneously minimize improper foreign influence in American affairs.

The Louisiana Purchase was perhaps one of the few times where government usurpation actually worked to the benefit of the American citizens.

The western lands owned by the United States were to be disposed of for purposes of debt reduction. It was up to Congress to provide for territorial government until State governments could form. The United States continued to dispose of the western lands after statehood, but it would have been a novel idea at that time to think that they had no obligation to do so.

It is helpful to know how Article IV, Section 3, Clause 2 was first introduced (by James Madison) at the Constitutional Convention on **August 18, 1787**. The first of two Clauses read:

> (The Congress shall have power…) "To dispose of the unappropriated lands of the U. States."
>
> Volume 5, Elliott's Debates, Page 438

The second of the proposed Clauses stated:

> (The Congress shall have power…) "To institute temporary Governments for New States arising therein."
>
> *Ibid.*

These early renditions of Article IV, Section 3 further show the actual purpose of Clause 2 as ultimately ratified, that the disposal of the property and the formation of new State governments were the ultimate goals. No wording proposed would have supported continued ownership and federal control of the unappropriated lands indefinitely.

The Mississippi Territory was allowed to form territorial governments which entitled the people thereof to all the same "rights, privileges and advantages granted to the people of the territory of the United States, northwest of the river Ohio". With regards to the lands of the new territory:

> "That all the lands thus ascertained as the property of the United States, shall be disposed of... and the nett proceeds thereof shall be applied to...discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the territory northwest of the river Ohio".
>
> Volume I, Statutes at Large, Page 549 @ 550, Section 2. April 7, 1798.

Comparing the percentages of land claimed today within each State's boundaries by the federal government is an education.

Comparison of Acreage Owned by U. S. Government out of Total U. S. Acreage						
State	Total Acreage of State or District	Acreage Owned by Others	Total Acreage Owned by U. S. Government	Purchased	"Public Domain"	Percent of State Owned by U. S. Government
Alabama	32,678,400	31,598,853.6	1,109,546.4	1,108,122.2	1,424.2	3.395
Alaska	365,481,600	117,194,736.7	248,286,863.3	277,226.9	248,009,636.4	67.934
Arizona	72,688,000	39,557,933.3	33,130,066.7	1,364,265.4	31,765,801.3	45.578
Arkansas	33,599,360	30,173,699.7	3,259,660.3	2,385,631.9	1,040,028.4	9.702
California	100,206,720	55,179,428.6	45,027,291.6	3,441,375.6	41,585,916.0	44.934
Colorado	66,485,760	42,261,805.1	24,233,954.9	1,450,117.4	22,773,837.5	36.450
Connecticut	3,135,360	3,120,247.6	15,112.4	14,951.2	161.2	0.482
Delaware	1,265,920	1,239,209.7	26,710.3	26,705.3	5.0	2.110
Florida	34,721,280	31,832,200.1	2,889,079.9	2,806,832.6	82,247.3	8.321
Georgia	37,295,360	35,215,120.8	2,808,239.2	2,080,229.1	10.1	7.530
Hawaii	4,105,600	3,500,238.0	605,362.0	349,900.1	255,461.9	14.745
Idaho	52,933,120	19,859,795.3	33,073,324.7	848,433.6	32,224,891.1	62.481
Illinois	35,795,200	35,167,452.5	627,747.5	627,333.3	414.2	1.754
Indiana	23,158,400	22,648,171.7	510,228.3	509,514.3	714.0	2.203
Iowa	35,860,480	35,626,091.6	234,388.4	234,052.7	335.7	0.654
Kansas	52,510,720	51,845,733.5	664,986.5	639,425.6	25,560.9	1.266
Kentucky	25,512,320	24,276,672.3	1,235,647.1	1,235,642.6	4.5	4.843
Louisiana	28,867,840	27,583,150.9	1,284,689.1	1,281,529.2	3,159.9	4.450
Maine	19,847,680	19,655,610.0	192,070.0	191,873.8	196.2	0.968
Maryland	6,319,360	6,119,943.3	199,416.7	199,264.7	152.0	3.156
Massachusetts	5,034,880	4,956,664.4	78,215.6	77,641.7	573.9	1.553
Michigan	36,492,160	32,404,689.5	4,087,470.5	3,792,737.6	294,732.9	11.201
Minnesota	51,205,760	46,768,436.4	4,437,323.6	3,191,630.1	1,245,693.5	8.666
Mississippi	30,222,720	28,448,654.5	1,774,074.5	1,770,438.2	3,636.3	5.870
Missouri	44,248,320	42,110,847.3	2,137,472.7	2,135,294.8	2,177.9	4.831
Montana	93,271,040	67,134,902.2	26,136,137.8	2,276,871.6	23,859,266.2	28.022
Nebraska	49,031,680	48,293,497.2	738,182.8	489,311.9	248,890.9	1.506
Nevada	70,264,320	11,889,056.8	58,375,263.2	330,244.3	58,045,018.9	83.080
New Hampshire	5,768,960	5,010,143.7	758,861.3	758,801.5	14.8	13.154
New Jersey	4,813,440	4,647,667.2	165,772.8	165,346.1	426.7	3.444
New Mexico	77,766,400	51,172,124.5	26,594,275.5	2,477,935.5	24,116,340.0	34.198
New York	30,680,960	30,558,890.4	122,069.6	121,678.8	390.8	0.398
North Carolina	31,402,880	28,894,478.0	2,508,402.0	2,507,063.8	1,338.2	7.988
North Dakota	44,452,480	42,602,770.6	1,849,709.4	1,599,127.4	250,582.0	4.161
Ohio	26,222,080	25,825,175.0	396,905.0	396,802.9	102.1	1.514
Oklahoma	44,087,680	42,807,121.5	1,280,558.5	1,144,805.0	135,753.5	2.905
Oregon	61,598,720	29,167,417.3	32,431,302.7	3,667,599.9	28,736,702.8	52.649
Pennsylvania	28,804,480	28,126,996.9	677,831.1	677,445.0	38.1	2.353
Rhode Island	677,120	673,240.1	3,879.9	3,835.9	44.0	0.573
South Carolina	19,374,080	18,185,730.0	1,188,350.0	1,188,338.3	11.7	6.134

South Dakota	48,881,920	46,128,215.6	2,753,704.4	1,231,148.7	1,522,555.7	5.633
Tennessee	26,727,680	25,084,306.3	1,643,373.7	1,643,371.7	2.0	6.149
Texas	168,217,600	165,413,203.1	2,804,396.9	2,745,750.7	58,646.2	1.667
Utah	52,696,960	18,690,980.9	34,005,979.1	1,764,989.8	32,240,989.3	64.531
Vermont	5,936,640	5,560,391.2	376,248.8	376,220.3	28.5	6.338
Virginia	25,496,320	23,197,208.6	2,299,111.4	2,298,358.8	572.6	9.017
Washington	42,693,760	30,507,390.9	12,186,369.1	1,464,528.1	10,721,841.0	28.544
West Virginia	15,410,560	14,232,632.6	1,177,927.4	1,177,923.6	3.8	7.644
Wisconsin	35,011,200	33,053,775.1	1,957,424.9	1,946,104.2	11,320.7	5.591
Wyoming	62,343,040	31,255,360.4	31,087,679.6	699,611.5	30,388,068.1	49.866
District of Columbia	39,040	29,917.6	9,122.4	9,000.7	121.7	23.367
Total/Average or %	2,271,343,360	1,616,487,980.1	655,457,781.5	65,202,385.9	589,655,842.6	28.858
Source: Public Land Statistics: 1999 Edition. Bureau of Land Management, Department of the Interior. Table 1-3.						

"Purchased" federal property (as shown in the chart) consists of property purchased by the United States, where State legislatures voluntarily cede governing authority (Article I, Section 8, Clause 17 properties).

“Public lands” do not fall within this Article I, Section 8, Clause 17 category and are held in trust for later sale.

Today’s public-land western States can hardly have entered into the Union “on an equal footing in all respects whatsoever” with the original States and have “the same rights of sovereignty, freedom and independence, as the other states” if the federal government retains indefinite ownership of large tracts of lands within their borders (83% in Nevada, for example) and exercises great control over them (while keeping such lands off the tax rolls and off-limits to private settlement).

With regards to the territory “Northwest of the River Ohio”, there were obviously no State governments yet formed when territorial government was formed in 1787. States were allowed to form once population numbers reached 60,000 inhabitants, by Section 5 of the Northwest Ordinance. Once a State was formed, then the State would enter the Union on equal footing with the original States and the normal constitution restrictions and protections of or on States would then operate.

Before this, however, an interim territorial government under the general authority of Congress would operate according to Article IV, Section 3, Clause 2 of the Constitution, to a greater degree of power and authority than would otherwise be understood by other constitutional clauses (since these concerns would deal with local issues as would elsewhere be handled by States, counties, or cities).

Since Article IV, Section 3, Clause 2 does not allow for permanent federal control, it is unlike the authority of Article I, Section 8, Clause 17 on the exclusive legislative jurisdiction properties.

However, neither are Article IV, Section 3, Clause 2 properties completely unlike Article I, Section 8, Clause 17 properties, since State governments also do not (yet) operate there.

On a scale of the allowable exercise of power, Congress have the most restrictions and the least authority in States; they have fewer restrictions and greater authority in territories; and Congress have the least restrictions and greatest authority in their exclusive legislative jurisdictions.

For another example, consider the territory of the Philippine Islands following our successful military conquest of those lands in the Spanish-American War in 1898.

A quick look at the July 1, 1902 act shows our Congress established the temporary government of the Philippine Islands under the President as Commander-in-Chief of the Army and Navy. The islands were therein brought fully under the “occupation and possession of the forces of the United States” (until complete peace was established for two years, a census taken, and civil self-government established).

Section 1 of the **July 1, 1902 act** interestingly enough, details that:

> "The provisions of section eighteen hundred and nine-one of the Revised Statutes of eighteen hundred and seventy-eight shall not apply to the Philippine Islands". Volume 32, Statutes at Large, Page 692

The side-note in the act adjacent to this particular portion of Section 1 quoted provides readers with the topic of concern in the quoted section of the given Revised Statutes, that:

> "Constitution and laws of the United States not applicable. R.S., sec. 1891, p.333."

These passages plainly admit the Constitution of the United States and laws of the United States did not apply in this territory (at least in 1902).

That the Philippine Islands (in 1902) were not protected by our Constitution or American law (but were still under the protective wing of the United States in 1933), yet the April 5, 1933 executive order number 6102 did not apply to this insular possession of the United States ought to strike readers as being of particular interest.

In the States where there was the greatest protection of property (being under the Constitution), this protection seemed to be conspicuously absent.

Precisely where the government had greater authority to act (in the territories such as the Philippines) even where there were no direct constitutional protections of property, our government did not act oppressively and private property there was protected.

This should strike the reader as oddly incongruent.

For another example, consider slavery and the Civil War.

The 1857 *Dred Scott* decision by the supreme Court upheld the historically-accurate but wholly-inappropriate laws of slave-holding States that allowed some men to own others, that slaves were then but property. The court then upheld the Constitution's protections against slave-owners being deprived of property without due process (while ignoring, of course, liberty of all people).

As late as the spring of 1861, both the House and Senate approved a **March 2, 1861 Joint Resolution** proposing a new amendment to the U.S. Constitution and it was sent to the States for ratification (where it there failed). This proposed amendment read:

> "No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of the State".
>
> Volume 12, Statutes at Large, Page 251

As late as March, 1861, slavery thus seemed well-protected federally, as a majority of both houses approved a resolution for an Amendment protecting slavery be sent to the States for ratification.

On **June 19, 1862**, however, Congress enacted the following act:

> "That from and after passage of this act there shall be neither slavery nor involuntary servitude in any of the Territories of the United States now existing,

or which may at any time hereafter be formed or acquired by the United States, otherwise than in punishment of crimes whereof the party shall have been duly convicted."

Volume 12, Statutes at Large, Page 432

A lot of history obviously transpired between the March 2, 1861 proposed Amendment and the June 19, 1862 act which prohibited slavery in the territories. However, one must note that it took the next three and a half long years before the Thirteenth Amendment was ratified for the same latter effect on the States as performed in the 1862 act.

Thus one sees evidence, regarding a critical topic of timely and pressing concern, that actions were instituted within territories which could not yet be done within States.

While it is true that prohibition of slavery was done by legislative act and the Thirteenth Amendment was ratified by States (though it was first proposed by Congress), one sees that the mood of the majority of Congress in 1861 was still for keeping slavery at the status quo.

It is further admitted that the subject of slavery was already breached by June of 1862 (undoubtedly causing some members of Congress to no longer feel the need for caution).

The point is still valid, however, that the 1862 slavery act only reached the territories where Congress have greater leeway, and the same topic did not reach to the States (for another three years, after conclusion of the war).

This same logical progression cannot be said regarding the 1933 prohibiting of gold ownership, however; precisely where one would naturally expect fewer attempts to restrict and especially prohibit gold ownership (in States) it was instead sought. Precisely where one would expect greater attempts to restrict gold ownership (in territories), it was not.

Thus prohibiting gold ownership in the United States while excluding the territories was completely opposite of what logic would dictate and as was seen regarding the prohibition of slavery during the Civil War.

Even in the Philippine Islands operating under temporary military rule after successful armed conquest, one found that the citizens thereof could not be deprived of "life, liberty, or property without due process of law" by Section 5 of that July 1, 1902 act and such principles were yet upheld in 1933.

This was the same principle as found in our 1917 Trading with the Enemy Act, where money and property of our enemies found within our borders and control, was merely safe-kept until the conclusion of the war, when it was then returned to its rightful owners (discussed below).

Slavery, again though it was such a terrible travesty in our history, yet provides us living under its variant today with keen insight into matters of depriving some persons of their property (even when that property was other persons).

In an April 16, 1862 act, Congress properly freed "all persons held to service or labor within the District of Columbia by reason of African descent". Volume 12, Statutes at Large, Page 376

Of course, no property owner can be deprived of any property for any public use "without due process" and "just compensation" (even in the District of Columbia). Thus, sections 2 – 7 provided the mechanisms for paying those slave owners that "just compensation"!

Slaves, even as they were being freed in the District of Columbia in 1862 were yet acknowledged as property under which the slave owners could not be deprived of without just compensation (so payment was made for the owners' loss of property).

But the question must really be, of course, *may Congress actually prohibit the private ownership of the most liquid form of property (gold) even under the exclusive legislative jurisdiction for the seat of government*?

The answer as to whether Congress may actually prohibit the private ownership of gold even under the exclusive legislative jurisdiction for the seat of government is, emphatically, NO! This is the reason slave owners in the District of Columbia were provided compensation for the emancipation of their slaves (in President Lincoln's Emancipation Proclamation, the only slaves freed were those within the States in open rebellion [or in named counties in rebellion even in States otherwise operating under normal civil authority] who removed themselves from the Constitution's protections).

This shows that the deception involving gold confiscation goes even beyond common methods to bypass normal constitutional limitations of Congress.

To back up that claim, it is appropriate to return from our divergence into territorial government and push our way further through the dry but otherwise necessary information which must be examined to regain our rights, our property, and our Republican Form of Government under the Constitution.

Section D-2: 1933, April 5 E.O. No. 6102

"Person" was defined in Section 1 of executive order number 6102 to mean "an individual, partnership, association, or corporation", precisely as also defined in Section 2 of the act of March 9, 1933 act (and also executive order number 6260 [which replaced 6102]).

Section 2 of the April 5, 1933 executive order number 6102 required "All persons" to deliver "to a Federal Reserve Bank or branch or agency thereof or to any member bank of the Federal Reserve System" all their gold (with a few limited exceptions).

It should be noted that "required" is a very strong word. So strong, in fact, that it is seldom ever used in law, being so very black and white.

More often the word "shall" is used, such as found in executive order number 6260 (the August 28, 1933 replacement for 6102), that "every person…owning gold…shall make an oath" or "No person other than a Federal Reserve Bank shall after the date of this Order acquire in the United States any gold".

That all persons were required by executive order number 6102 to deliver all their gold to a Federal Reserve bank provides another important key needing further investigation.

First of all, it should raise more than just a few red flags why any person should be forced to turn in anything over to any private entity, even to a private entity which happened to be chartered by an act of Congress.

One should ask why "persons" were not required to turn in their gold directly to (some branch of) the government, which, after all, was the entity here doing the ordering.

Since the Fifth Amendment requires due process before any person is deprived of property and requires just compensation anytime private property is taken for *public* use, *where was the "due process" and where was the "just compensation" regarding gold confiscation* (*can anyone seriously claim the giving of non-redeemable paper for gold amounts to "just compensation*")?

Or was the turning in of gold to member banks of the Federal reserve system private benefit? If private, under what pretext could it be done to take from one to pay another?

Under what precepts could all persons be required to turn in their gold to another person — another individual, partnership, association, or corporation?

Of great and pressing significance is the realization that if "all" persons are required to deliver their gold to a Federal Reserve bank, then it appears that a Federal Reserve bank is <u>not</u> a "person" within the meaning of the order.

If "all" individuals, partnerships, associations or corporations are required to deliver their gold to a Federal Reserve bank, then it appears that a Federal Reserve bank is <u>not</u> an "individual, partnership, association or corporation" within the meaning of the order.

Thus, even though the "term 'person' means <u>any</u> individual, partnership, association or corporation", and even though there were no exemptions whatsoever for any "individuals, partnerships, associations or corporations", Federal Reserve banks were not persons, individuals, partnerships, associations or corporations for purposes of the executive order.

Neither were there any exemptions for these terms within the March 9th act or August 28 executive order which replaced executive order number 6102 (though 6260 did expressly state that the Federal Reserve banks were allowed gold).

If *some* persons, individuals, partnerships, associations, or corporations *are not* then persons, individuals, partnerships, associations, or corporations under the executive orders and March 9th act, *is it not conceivable that there are not also other persons, individuals, partnerships, associations, or corporations who are also not persons, individuals, partnerships, associations, or corporations, <u>for purposes of the act and orders</u>*?

The answer is, "most assuredly"…

Contradictory evidence such as this is the stuff which brings down omnipotent government operating as it pleases. Clues such as this simply cannot be ignored — one *must* continue to search for the correct answer until it presents itself.

Recall, after all, that it was only "persons" who were "required" to turn in their gold.

Proper examination into defining a "person" for a precise legal effect ultimately exposes the whole evil government plan involving gold confiscation.

Section 1 of executive order number 6102, after the introductory paragraph discussed earlier, reads:

> "For the purposes of this regulation, the term "hoarding" means the withdrawal and withholding of gold coin, gold bullion or gold certificates from the recognized and customary channels of trade. The term "person" means any individual, partnership, association or corporation."

Next followed the notorious **Section 2**, which stated, in part:

> "All persons are hereby required to deliver on or before May 1, 1933, to a Federal Reserve Bank or branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion and gold certificates now owned by them or coming into their ownership on or before April 28, 1933, except the following…"

Following this were a list of four exceptions, including an allowance for any one person to keep up to $100 worth of gold coin or gold certificates, and also gold coins "having a recognized special value to collectors of rare and unusual coins".

Section 3 then stated:

> "Until otherwise ordered any person becoming the owner of any gold coin, gold bullion, or gold certificates after April 28, 1933, shall, within three days after receipt thereof, deliver the same in the manner prescribed in Section 2; unless such gold coin, gold bullion or gold certificates are held for any of the purposes specified in paragraphs (a), (b), or (c) of Section 2; or unless such gold coin or gold bullion is held for purposes specified in paragraph (d) of Section 2 and the person holding it is, with respect to such gold coin or bullion, a licensee or applicant for license pending action thereon."

Section 4 stated:

> "Upon receipt of gold coin, gold bullion or gold certificates delivered to it in accordance with Sections 2 or 3, the Federal Reserve Bank or member bank will pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States."

Section 5 stated:

> "Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them (other than as exempted under the provisions of Section 2) to the Federal Reserve Banks of their respective districts and receive credit or payment therefor".

Section 9 is the last section of interest, which provided up to a ten-year prison term and fine up to $10,000 for "Whoever willfully violates any provision of this Executive Order or any regulation or…rule…issued thereunder".

With this nine-section "executive order", gold ownership within the United States became effectively prohibited (until the act of September 21, 1973 [87 Stat. 532]), as popularized by the posting of such posters as shown below:

POSTMASTER: PLEASE POST IN A CONSPICUOUS PLACE.—JAMES A. FARLEY, Postmaster General

UNDER EXECUTIVE ORDER OF THE PRESIDENT

issued April 5, 1933

all persons are required to deliver

ON OR BEFORE MAY 1, 1933

all GOLD COIN, GOLD BULLION, AND GOLD CERTIFICATES now owned by them to a Federal Reserve Bank, branch or agency, or to any member bank of the Federal Reserve System.

Executive Order

FORBIDDING THE HOARDING OF GOLD COIN, GOLD BULLION AND GOLD CERTIFICATES.

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", in which amendatory Act Congress declared that a serious emergency exists, I, Franklin D. Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said section do hereby prohibit the hoarding of gold coin, gold bullion, and gold certificates within the continental United States by individuals, partnerships, associations and corporations and hereby prescribe the following regulations for carrying out the purposes of this order:

Section 1. For the purposes of this regulation, the term "hoarding" means the withdrawal and withholding of gold coin, gold bullion or gold certificates from the recognized and customary channels of trade. The term "person" means any individual, partnership, association or corporation.

Section 2. All persons are hereby required to deliver on or before May 1, 1933, to a Federal reserve bank or a branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion and gold certificates now owned by them or coming into their ownership on or before April 28, 1933, except the following:

(a) Such amount of gold as may be required for legitimate and customary use in industry, profession or art within a reasonable time, including gold prior to refining and stocks of gold in reasonable amounts for the usual trade requirements of owners mining and refining such gold.

(b) Gold coin and gold certificates in an amount not exceeding in the aggregate $100.00 belonging to any one person; and gold coins having a recognized special value to collectors of rare and unusual coins.

(c) Gold coin and bullion earmarked or held in trust for a recognized foreign government or foreign central bank or the Bank for International Settlements.

(d) Gold coin and bullion licensed for other proper transactions (not involving hoarding) including gold coin and bullion imported for reexport or held pending action on applications for export licenses.

Section 3. Until otherwise ordered any person becoming the owner of any gold coin, gold bullion, or gold certificates after April 28, 1933, shall, within three days after receipt thereof, deliver the same in the manner prescribed in Section 2; unless such gold coin, gold bullion or gold certificates are held for any of the purposes specified in paragraphs (a), (b) or (c) of Section 2; or unless such gold coin or gold bullion is held for purposes specified in paragraph (d) of Section 2 and the person holding it is, with respect to such gold coin or bullion, a licensee or applicant for license pending action thereon.

Section 4. Upon receipt of gold coin, gold bullion or gold certificates delivered to it in accordance with Sections 2 or 3, the Federal reserve bank or member bank will pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

Section 5. Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them (other than as exempted under the provisions of Section 2) to the Federal reserve banks of their respective districts and receive credit or payment therefor.

Section 6. The Secretary of the Treasury, out of the sum made available to the President by Section 501 of the Act of March 9, 1933, will in all proper cases pay the reasonable costs of transportation of gold coin, gold bullion or gold certificates delivered to a member bank or Federal reserve bank in accordance with Sections 2, 3, or 5 hereof, including the cost of insurance, protection, and such other incidental costs as may be necessary, upon production of satisfactory evidence of such costs. Voucher forms for this purpose may be procured from Federal reserve banks.

Section 7. In cases where the delivery of gold coin, gold bullion or gold certificates by the owners thereof within the time set forth above will involve extraordinary hardship or difficulty, the Secretary of the Treasury may, in his discretion, extend the time within which such delivery must be made. Applications for such extensions must be made in writing under oath, addressed to the Secretary of the Treasury and filed with a Federal reserve bank. Each application must state the date to which the extension is desired, the amount and location of the gold coin, gold bullion and gold certificates in respect of which such application is made and the facts showing extension to be necessary to avoid extraordinary hardship or difficulty.

Section 8. The Secretary of the Treasury is hereby authorized and empowered to issue such further regulations as he may deem necessary to carry out the purposes of this order and to issue licenses thereunder, through such officers or agencies as he may designate, including licenses permitting the Federal reserve banks and member banks of the Federal Reserve System, in return for an equivalent amount of other coin, currency or credit, to deliver, earmark or hold in trust gold coin and bullion to or for persons showing the need for the same for any of the purposes specified in paragraphs (a), (c) and (d) of Section 2 of these regulations.

Section 9. Whoever willfully violates any provision of this Executive Order or of these regulations or of any rule, regulation or license issued thereunder may be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

This order and these regulations may be modified or revoked at any time.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
April 5, 1933.

For Further Information Consult Your Local Bank

GOLD CERTIFICATES may be identified by the words "GOLD CERTIFICATE" appearing thereon. The serial number and the Treasury seal on the face of a GOLD CERTIFICATE are printed in YELLOW. Be careful not to confuse GOLD CERTIFICATES with other issues which are redeemable in gold but which are not GOLD CERTIFICATES. Federal Reserve Notes and United States Notes are "redeemable in gold" but are not "GOLD CERTIFICATES" and are not required to be surrendered

Special attention is directed to the exceptions allowed under Section 2 of the Executive Order

CRIMINAL PENALTIES FOR VIOLATION OF EXECUTIVE ORDER $10,000 fine or 10 years imprisonment, or both, as provided in Section 9 of the order

Secretary of the Treasury.

U.S. Government Printing Office: 1933 2-16064

Besides asking questions, it is always proper to analyze any given situation from a broad perspective, to better understand the fundamental principles involved.

In the present case, if private citizens had either kept their gold coin at home or even in a bank under an account in their name for a rainy day or even for spending on necessary or desired items in the present or very near future, this was now called “hoarding” by the government and prohibited (except for minimal amounts and limited uses).

However, if private citizens turned in all their gold and gave up all their gold certificates to a private bank who was a member of the Federal Reserve system (the banks which could not pay out this gold to others), this was not hoarding.

So, as long as no citizen or non-bank entity had any direct claim to any gold, the same gold yet found in the same banks was not “hoarding”.

And in the period that followed six and nine months later when the Federal Reserve banks transferred much of their gold to the government which then melted a great deal of it into bars and stored it under heavy guard and lock and key at Fort Knox, not to be used again in trade for several generations (at least domestically), this was the “application of appropriate measures” for “protecting” the interests of the American people, but it was not hoarding — the “withdrawal and withholding of gold…from the recognized and customary channels of trade”.

That Franklin Delano Roosevelt was so loved by so many Americans who lived through this era is unfathomable to this author. To legally rob, steal and cheat Americans of all their gold and yet be adored by so very many of them tells volumes about the slick actions of clever men instituted in the bottom of the Great Depression (which itself was caused by the over-issuance and then later curtailment of financial instruments [including paper money] in the first place).

Of course, the question of the century was, *may an executive order, even one nominally supported by several acts of Congress, actually require Americans to give up their gold and receive paper notes* (regardless of which jurisdiction under which it was issued)?

To answer this and questions like those asked earlier, further inspection of this executive order and its supporting documents is necessary. As government is but a delegation of authority, the stated or unstated authority for any government official to act is always of paramount importance, for without proper authority, the action is improper.

President Roosevelt specifically quotes not just Section 2 of the act of March 9, 1933, but as it amended Section 5 (b) of the act of October 6, 1917.

Thus, President Roosevelt’s authority to act ultimately rests on said (amended) Section 5 (b) of the act of October 6, 1917.

To learn more about the stated authority of the President to act, it is necessary to look further into the Trading with the Enemy Act of October 6, 1917.

Section F: 1917, October 6 Act

World War I — the war to end all wars — was raging in 1917 when this Trading with the Enemy Act was enacted. As the war then fully enveloped the United States, it is not necessarily

surprising that Congress sought to prevent "trading with the enemy", nor would such prevention be in any way unwarranted.

The act began with a number of definitions of words for use within the act, including that of "enemy". "Enemy" was quite extensively defined, but herein abbreviated as any individual, partnership, body of individuals within any territory which the United States were at war, or any corporation incorporated in such territory, or resident outside the United States and, of course, any government or political or municipal subdivision of any nation with which the United States were at war.

This principle of an enemy being the country or someone associated with it which the United States were at war makes sense, and follows the principle stated in the Declaration of Independence of "Enemies in War, in Peace Friends" — that one did not have "enemies" except during a period of declared war.

Section 2 of the act of **October 6, 1917**, the "Trading with the enemy Act", stated, "as *used herein*" that the word "person", shall be:

> "deemed to mean an individual, partnership, association, company or other unincorporated body of individuals, or corporation or body politic".

Recall, however, that **Section 2** of the **act of March 9, 1933**, which amended subdivision (b) of Section 5 of the Act of October 6, 1917, stated:

> "*As used in this subdivision* the term 'person' means an individual, partnership, association, or corporation".

Recall also that **executive order number 6102** likewise specifically defined "person" in Section 1 also to mean (italics added):

> "*any* individual, partnership, association or corporation".

Thus we see that although "person" was specifically defined in the original 1917 act to mean "an individual, partnership, association, company or other unincorporated body of individuals, or corporation or body politic", the 1933 amendment changed its meaning (for <u>only</u> subdivision 5 (b) of that 1917 act), to now mean "any individual, partnership, association or corporation".

"Person" was thus defined in the original 1917 act differently from the March 9, 1933 act and executive orders 6102 and 6260. The definition of person for subdivision 5 (b) of the 1917 act was thus expressly changed in the 1933 amendment.

This change is of pivotal importance, for it was "persons" — as defined — who were "required" by executive order number 6102 to turn in their gold to the banks.

If there were any people who were not "persons" as defined in executive order number 6102, then they would not actually be required to turn in their gold!

Before digging further into this disparity, we should first understand another important principle of the 1917 act.

Section 7 (b) of the 1917 act stated that "Nothing in this Act shall be deemed to prevent payment of money belonging or owing to an enemy".

Section 7 (c) merely required money or other property of an enemy owed or found in the United States to be conveyed over to the "alien property custodian" until the end of the war and the later disposition under proper rules.

Under Section 12 of the 1917 act, the alien property custodian was specifically vested with all the powers of a common-law trustee in respect to the alien enemy's property (except for money, which was to be assigned to the Treasurer of the United States "with the same effect as if to the alien property custodian").

Thus, while the property of enemy was essentially held in trust for them merely until the conclusion of the war by the 1917 act, under the 1933 amendment, the gold property confiscated from Americans by their own government, and "paid" for in non-redeemable paper certificates, would never be redeemed.

That is, that which would not be done in time of war to one's mortal enemies who were trying to kill us and rule the world would be earnestly sought after in 1933 by those elected legislative members and government officials who swore an oath to support the Constitution, including the President who specifically swore to preserve, protect and defend it!

President Roosevelt and the 73rd Congress steered the nation away from the Constitution as no enemy has *ever* been able, and did more lasting financial damage and caused greater constitutional repercussions than ever have any invading force.

What Republican President Abraham Lincoln first approved during the Civil War (the issuance of legal tender paper notes alongside gold and silver coin, the creation of national banks, the undermining our independent treasury system, etc.), laid the initial groundwork for later confiscation of gold itself for us to be left with mere paper.

Roosevelt and the 73rd Congress, in sucking out the marrow from the bone, left but a hollow shell where there once had been vibrant life, allowing the host to struggle for its very life, struggling to avoid a slow and tortuous death.

In a competition to see which political party could do most to damage the Constitution, though the Republicans had a strong and early lead, the Democrats set the bar very high indeed in 1933.

That both political leaders involved were so loved, not in spite of their actions, but often because of their actions, does not bode well to a restoration of sound constitutional principles.

Perhaps a better measure of our political leaders would be based upon their actions which properly fulfilled their sworn oath; that our best Presidents are those who best protected the letter and spirit of the Constitution and left the Republic free and independent (not only from foreign tyranny, but self-imposed financial and regulatory tyranny as well).

Section C-2: 1933, March 9 Act

It is appropriate after brief study of the 1917 act to return to further examination of the March 9, 1933 act, and its Section 2 which amended the 1917 act, to learn more about who were actually "persons" for purposes of executive order number 6102.

The amendment to Section 5 (b) of the 1917 act began: "During time of war or during any other period of national emergency declared by the President, the President may…"

It is important to ponder whether the alternatives first being offered in this amended subsection are equivalents with one another.

For example, regarding "time of war", one realizes that war is declared by Congress within their enumerated power to "declare war" as listed in Article I, Section 8, Clause 11.

Are the situations of war declared by Congress under express constitutional authority equivalent to "any other period of national emergency declared by the President"? Certainly not!

The President may make his proclamations for a day of thanksgiving or other such proclamations of equal significance. He may even proclaim some things with force and binding effect which he is explicitly empowered (such as issuing reprieves and pardons for offences against the United States, as found in Article II, Section 1, Clause 1; or convene both Houses in special session, or commission officers, as detailed in Article II, Section 3, etc.).

One should notice "or" marks an alternative and does not mean "and". For example, ponder for a moment the following mathematic equation:

$$2 + 2 = 4 \text{ or } 5$$

This equation is correct, because the correct answer is found within the list of possible alternative answers (which are acknowledged to be alternative answers).

It is an error to assume both possible answers (4 *and* 5) are both true, however.

Thus the phrase "During time of war" is not equivalent to "any other period of national emergency declared by the President". We know that "during time of war", the President was empowered by the 1917 act (Section 5 [a]) to provide licenses to allow trade with an enemy where it was "compatible with safety…and with the successful prosecution of the war".

This does not mean, however, that in "any other period of national emergency declared by the President", that the President can do any of the things outlined in Section 2 of the 1933 act.

As stated earlier, it is important to realize that Second 2 of the March 9, 1933 act amended the October 6, 1917 act and did not operate as a stand-alone function of the March 9, 1933 act.

President Roosevelt's March 6th proclamation specifically pointed to Section 5 (b) of the 1917 act as authority to close the banks, not any other section, sub-section, or subdivision of the 1917 act.

Looking through the original 1917 act, it is difficult to see any other section, subsection, phrases or words which would be applicable to anything which the President and Congress were wanting to do in 1933.

Thus, it appears that (the newly-amended) Section 5(b) of the 1917 act was the only possible section of the 1917 act which had any relevance to the intended direction of the 1933 Congress and President.

With that perhaps being the case, the March 9, 1933 act could have perhaps simply stood on its own, rather than amend the 1917 act, as far as the understood actions of the April 5, 1933 executive order were concerned.

Since Section 2 of the March 9, 1933 act nevertheless amended Section 5(b) of the 1917 act, this shows that there must have been *something* else of vital importance which made it necessary for achieving the desired end that the designated words of the second section of the 1933 act were instead attached to the Trading with the Enemy Act, which could not be similarly achieved as merely being a stand-alone section of the 1933 act.

The real answer of what was gained by being attached to the 1917 act must then actually come from <u>outside</u> the words of Section 2 of the 1933 act (therefore outside amended Subdivision (b) of Section 5 of the 1917 act).

Only within the context of the 1917 act then do the new words listed in the second section of the 1933 act then provide Congress with their ultimate objective.

By attaching Section 2 of the 1933 act to an act which, for all practical purposes, was no longer in operation, it didn't actually have operation!

Without a current war and without a current enemy, the Trading with the Enemy Act no longer had any applicable effect in 1933.

By attaching the 1933 amendment to the 1917 act (which importantly had not actually been repealed), Congress could modify the otherwise defunct but yet valid 1917 act, while not actually having it operative.

Their objective was evidently to *appear* to provide the President with his stated authority, while actually not passing any law which yet had effect (which would then perhaps be forced to judicial review).

Mere smoke and mirrors, in other words.

As noted by the name and especially within the text of the act, the "Trading with the Enemy Act" dealt with trade with an enemy during a period of declared war. Thus, throughout the 1917 act, one saw such phrases as "during the present war…" and "until the end of the war…" or "after the end of the war" (the latter period reflecting a return to normalcy).

In 1933, of course, there was no war (and especially not "the present war", which ended November 11, 1918), and thus there was no enemy with which to regulate or prohibit trade. Thus, due to the express qualifying phrases ("during the present war", etc.), the act would only operate *when the qualifiers were true*.

To better understand executive order number 6102, it may be helpful to work backwards, starting with the end game and working back from there.

Part one of the end-game is found in Section 2 of the Gold Reserve Act of 1934 enacted January 30, 1934, which stated, in part:

> "all right, title, and interest and every claim of the Federal Reserve Board, of every Federal Reserve bank, and of every Federal Reserve agent, in and to any and all gold coin and gold bullion shall pass to and are hereby vested in the

> United States; and in payment therefor credits in equivalent amount in dollars are hereby established in the Treasury…Balances in such accounts shall be payable in gold certificates…All gold so transferred, not in the possession of the United States, shall be held in custody for the United States." 48 Stat. 337

One part of the end-game of the gold confiscation acts, orders, and proclamations was to pass to and vest in the government of the United States, all right, title and interest of all the confiscated gold coin and gold bullion.

One must realize that under the Gold Reserve Act of 1934, the right, title and interest to only the gold coin and gold bullion passed to the United States, but not any gold certificates.

Thus, when executive order number 6102 required all persons to turn in their gold coin, gold bullion and gold certificates in to the bank (all "paid for" with non-redeemable legal tender paper currency), the Federal Reserve banks were able to keep the gold certificates.

Not only that, but when the government received all the right, title and interest in gold, the Federal Reserve banks which had earlier collected all the gold were paid for that transferred gold with gold certificates (see Section 2 [a] of the Gold Reserve Act).

Thus, the government obtained all the gold (coin and bullion) while the banks received the gold certificates.

What this really meant, of course, was that with the government receiving the gold, they actually incurred the responsibility for caring for it; however, the benefit of that gold went to the Federal Reserve banks that had the gold certificates which served as a claim on that gold!

The reward to the biggest banks for overextending credit sufficiently to sink the economy into the greatest depression the country had ever seen was to obtain the financial benefit of all American gold!

And who claims financial upheaval is not profitable (for the fortunate few, at least)*?*

It is precisely during such financial upheaval when vast amounts of wealth are transferred into fewer and fewer hands by methods few people understand.

Part two of the end-game occurred on January 31, 1934 by Presidential proclamation number 2072. President Roosevelt therein did "hereby proclaim, order, direct, declare, and fix the weight of the gold dollar to be 15 5/21 grains nine tenths fine" — as great as any tyrant, despot, dictator, oppressor or autocratic ruler.

Whereas the 1837 gold dollar contained 25.8 grains gold nine-tenths fine (or 23.22 grains of fine gold), the new gold dollar for was declared to be 15 5/21 grains (15.238 grains standard gold [13.7142 grains of fine gold]).

Whereas one ounce of fine gold had been worth $20.67 (480/23.22), now it was devalued in 1934 to $35.00 per ounce (480/13.7142).

As an aside, gold was devalued to $38.00 per ounce on March 30, 1972 (86 Stat. 116) and $42.22 on September 21, 1973 (87 Stat. 352).

Of course, since the Constitution vests (permanently fixes) in Congress the authority "To coin Money, and regulate the Value thereof " under Article I, Section 8, Clause 5, one must ask *may Congress delegate their vested legislative power over to the executive branch?*

Article I, Section 1 of the Constitution vests the legislative power in Congress. Article I, Section 6, Clause 2 prevents any officer of the United States from being a member of either house, thereby preventing any officer from exercising any legislative power.

While perhaps the President may be able to make such declarations for exclusive jurisdiction areas for the seat of government and forts, magazines, arsenals, dock-yards, and other needful buildings (only he isn't, of course [again, Article I, Section 8, Clause 17 of the U.S. Constitution vests the exclusive *legislative* jurisdiction again in Congress {not the President}]), the President is certainly not able to make such binding proclamations for the United States of America which is protected by the whole Constitution.

While the "dollar" of "the United States" (for the exclusive legislative jurisdiction) included United States notes, circulating notes of the national banking system (and later Federal Reserve bank notes) and its gold dollar was perhaps devalued from $20.67 to $35.00, to $38.00 to $42.22, the "dollar" of the United States of America (defined as the Constitution normally understands the term) remains but a gold coin of 25.8 grains of gold 900 fine (equivalent to $20.67/ounce) or a coin of silver of 412.5 grains of silver 900 fine.

Our American dollar remains as it has been; only it now awaits us liberty-minded Americans to properly reclaim it.

It is helpful to learn more on how the Federal Reserve banks got receipt of all their gold which became vested in the government.

The March 9, 1933 act had two major sections — Section 2 as we saw earlier which amended the 1917 Trading with the enemy Act and Section 3 which amended Section 11 of the 1913 Federal Reserve Act.

Section 3 of the **March 9, 1933 act** reads (amending Section 11 of the Federal Reserve act):

> "(n) Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations and corporations. Upon receipt of such gold coin, gold bullion, or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise."

Deleting out the less important and breaking the remainder into different paragraphs for greater ease of understanding, the first portion reads:

> "the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations and corporations *to pay and deliver* to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations and corporations."

The first thing to notice, besides the repetitive nature of "individuals, partnerships, associations, and corporations" is what these individuals, partnerships, associations and corporations were being here possibly required to do, by the Secretary of the Treasury, in his discretion.

In this case, it was in the Secretary of the Treasury's discretion to order these particular individuals, partnerships, associations, and corporations "to pay and deliver to the Treasurer of the United States any or all gold".

After the banks paid and delivered their gold to the Treasurer, the amended subsection then stated that:

> "Upon receipt of such gold coin, gold bullion, or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States."

Thus, the individuals, partnerships, associations and corporations under the amended Federal Reserve Act were to "pay and deliver" their gold to the Treasurer of the United States whenever, in the discretion of the Secretary of the Treasury, he required it.

Thereafter the Secretary of the Treasury would "pay" an equivalent amount of other coin or currency (evidently choosing which thing to pay in his discretion).

There seems to be a whole lot of "paying" going on here, first for individuals to "pay and deliver" to the treasury and then for the Secretary of the Treasury to pay individuals. This provides evidence that it is not a normal transaction, where one party pays and one party provides (where the party paying does the receiving).

"Pay and deliver" was a phrase we have seen before, in one form or another.

In Section 9 of the Independent Treasury act of August 6, 1846, we saw that all collectors of the public money, "as may be directed by the Secretary of the Treasury", were "to pay over" to the treasurer of the United States "all public moneys collected by them".

Section 16 of the same act stated that "any failure to pay over…the public moneys intrusted to such person shall be held and taken to be prima facie evidence of embezzlement".

Thus, to those collectors of the government revenue were obligated "to pay over" to the government the money which was not theirs, which they had collected on behalf of the government, whenever the proper government official told them to do so.

In section 15 of the February 25, 1863 national banking act, every national banking association, before commencing business, was to "transfer and deliver" to the treasurer of the

United States government bonds as paid in capital stock held by the treasurer in case of later default.

In section 16 of the same act, any national banking association wanting to issue "circulating notes" could do so, to the extent of 90% of the market value of the government bonds which had been so "transferred and delivered" to the treasurer of the United States.

Of course, if the current value of the deposited bonds later dropped, and the bank was at or near their maximum 90% limit, they may well get a margin call from the Secretary of the Treasury!

With that margin call, the Secretary, in his discretion (up to the 90th percentile anyway), may require them to transfer and deliver additional bonds. If they didn't send in additional bonds, they would either have to decrease their note issue, or the Secretary of the Treasury would order their deposited bonds to be sold to the extent necessary to correctly maintain their deposit requirements to which the banks had earlier specifically agreed.

"Transfer and deliver" in the national banking acts dealt with individuals, partnerships, associations, or corporations who had entered into voluntary obligation (to obtain desired charters with benefit to print their own paper currencies and perform other banking functions) whereby they placed themselves under the Secretary of the Treasury's discretion that they may need to send him more funds to cover their liabilities.

Every speculator who buys stocks or commodities on margin with their broker has likewise invested with that broker the seemingly-unlimited "discretion" for him to tell them when to send him more money!

The mint act of May 26, 1882 (22 Stat. 97) provided that the coinage mints and assay offices were authorized to "receive United States gold coin from any holder thereof in sums not less than five thousand dollars, and to pay and deliver in exchange therefor gold bars in value equaling such coin so received".

This act shows that "pay and deliver" was the second half of an exchange, which obligated the latter party to complete the transaction initiated by the first party.

The Federal Reserve Act of 1913, of course, superseded the national banking act of February 25, 1863, as amended. Thus, by 1933, what the national banking acts had required (to pay over bonds to meet liabilities) was now superseded (to now pay over gold, to meet liabilities).

Recall **Section 16** of the **Federal Reserve Act** required each Federal reserve bank to (italics added):

> "maintain on deposit in the Treasury of the United States, a sum of *gold* sufficient in the *judgment* of *the Secretary of the Treasury* for the redemption of the Federal reserve notes issued to such bank, but in no event less than five per centum".
>
> Volume 38, Statutes at Large, Page 251 @ 266

The banks organizing under the Federal Reserve system agreed (in exchange for the benefits extended to them) to keep deposited in the Treasury of the United States a "sum of gold"

sufficient "in the judgment of the Secretary of the Treasury" for the redemption of notes issued to such bank.

Of course, this "five per centum" deposit of gold in the Treasury for banking of Federal reserve notes issued to any particular bank was the *minimum* deposit.

Recall **Section 16** also required every Federal Reserve bank to maintain:

> "reserves in gold or lawful money of not less than thirty-five per centum against its deposits and reserves in gold of not less than forty per centum against its Federal reserve notes in actual circulation".
>
> *Ibid.*

Section 16 of the **Federal Reserve Act** further states:

> "The Federal reserve agent shall hold such gold, gold certificates, or lawful money available exclusively for exchange for the outstanding Federal reserve notes when offered by the reserve bank of which he is a director. Upon the request of the Secretary of the Treasury, the Federal Reserve Board shall require the Federal reserve agent to transmit so much of said gold to the Treasury of the United States as may be required for the exclusive purpose of the redemption of such notes".
>
> Volume 38, Statutes at Large, Page 267

By these portions of Section 16, one sees that Secretary of the Treasury, in his judgment, may require the banks to submit to the Treasury sufficient gold to adequately back their Federal Reserve notes and depositor's money which is held with the banks on deposit.

"Persons", legally by Executive Order number 6102, were really only those individuals, partnerships, associations, or corporations who had voluntary obligated themselves for their own benefit to fall within the Secretary of the Treasury's discretion, that they may need to send him more gold to cover their potential liabilities they earlier willingly incurred.

The April 5, 1933 executive order number 6102 was in effect a margin call by the Secretary of the Treasury's boss, the President, to only those "persons" who had voluntarily entered into agreements they would send enough gold to cover their liabilities, or lose their assets pledged (the Secretary, in accordance with the President's directive, later implemented regulations to that same effect).

The effect of the 1933 gold confiscation acts, resolutions, orders and proclamations, however, amounted to a bailout of the over-extended banks, swindling every American who, under threat of heavy fine and lengthy imprisonment, turned in their gold, even when they had no legal obligation, because they foolishly thought they were a person who was so required (and the danger of being wrong was a $10,000 fine and ten-year imprisonment term).

No wonder so many Americans distrust the biggest banks, the financial wizards of Wall Street, and the attorneys of both — this distrust is so very well earned!

Thankfully, a literal reading of at least one section of executive order number 6102 provides clear evidence of this actual circumstance, of banks being the ones needing to send in gold to properly back their liabilities.

Section 5 of **executive order number 6102** was quite explicit, if one can ignore the rest of the order:

> "Member banks shall deliver all gold coin, gold bullion and gold certificates owned or received by them (other than as exempted under the provisions of Section 2) to the Federal Reserve Banks of their respective districts and receive credit or payment therefor".

One must realize that the wording above was exactly as printed in the order (this author did not add the parenthesis and the words therein, "(other than as exempted under the provisions of Section 2)".

That member banks shall deliver all gold — other than as exempted under the provisions of Section 2 of the executive order — helps prove that only these member banks were "persons" within the meaning of the Section 2 requirement that "all persons" were being required to turn in their gold to the Federal reserve banks.

Indeed, if "persons" are understood to mean all persons (without limitation), then the four exemptions listed in Section 2 of the executive order would mean that by the time gold would have reached the member banks, that the four exemptions would have already exempted the private gold remaining in the homes, businesses or hiding places of those persons, and that this exempted gold would thus <u>not have reached the banks</u>.

Therefore, any gold now in possession of the banks would have already had taken into consideration the exemptions (if "persons" meant everyone).

In Section 5, however, here we see that the member banks themselves are to avail themselves to the four exemptions of Section 2 before they send their gold off to their own superiors, the Federal Reserve Banks of their respective districts!

Thus, to assume that "individuals, partnerships, associations, or corporations" could be defined without limitation to include all individuals, partnerships, associations, or corporations would be a fundamental error with unprecedented repercussions.

This is perhaps easier to understand by again looking at **Section 3** of the **March 9, 1933 act** (which again amended Section 11 of the <u>1913 Federal Reserve Act</u>) which states (italics added):

> "Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury *made under this subsection* shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise".

The only "individuals, partnerships, associations, or corporations" to whom could be forced to comply with the specific requirements "made under this subsection" (of the 1913 Federal Reserve act) were those persons which volunteered to come under the Federal Reserve Act for the benefits it extended them (as shareholders).

Individuals, partnerships, associations, and corporations who were not shareholders of member banks of the Federal Reserve System were not subject to the Federal Reserve Act, and thus, neither were they subject to executive order number 6102.

Shareholders of member banks of the Federal Reserve System had an obligation to the Federal Reserve system, the Secretary of the Treasury and to the Treasurer of the United States, to send their gold as proper backing of their financial risks they willingly chose to enter, to cover their bank notes and the bank deposits of their customers.

When depositors were making runs on the banks in 1933 and formed long lines at the bank window to withdraw their money, wouldn't one think the Secretary of the Treasury should require the banks to bolster their deposits of gold sufficient to meet demands?

This, of course, would require the bank's *shareholders* to bring in their gold, *not* the bank's *customers*. Executive order number 6102 was that order requiring the bank shareholders to bring gold so their customers were not shorted (though that is completely opposite than how it was marketed and ultimately used).

It is proper that they who enter into risk for potential benefit pay to the extent of their assets (or at least to the extent of their assets risked) if the deal goes south and doesn't work out as planned (as this author has done to the extent of his assets in his failed business ventures [and why he no longer has any appreciable assets]).

The April 5, 1933 executive order number 6102 only really obligated, under Sections 2, 3, and especially 5, "member banks" of the Federal Reserve System to turn in their gold to the Federal Reserve Banks of their respective districts.

No one else was a "person", nor an "individual, partnership, association, or corporation" for purposes of the order!

Since these member banks were the only "persons" required to turn in their gold (to their Federal Reserve master banks), it is important to delve further into them.

Looking further into this matter helps explain why executive order number 6102 only dealt with persons within the continental United States, and did not extend to the American territories where Congress have greater powers.

"Member banks" had been defined in Section 1 of the December 23, 1913 Federal Reserve Act (38 Stat. 251) to mean "any national bank, State bank, or bank or trust company which has become a member of one of the reserve banks created by this Act".

Section 2 of the **Federal Reserve Act** importantly states that the Secretary of the Treasury, the Secretary of Agriculture and the Comptroller of the Currency (italics added):

> "acting as 'The Reserve Bank Organization Committee,' shall…divide the *continental United States*, excluding Alaska, into districts…" Volume 38, Statutes at Large, Page 251

Section 19 of the **Federal Reserve Act** provides in part that (italics added):

> "National banks located in Alaska or *outside the continental United States* may remain nonmember banks…; or said banks, except in the Philippine Islands, may, with the consent of the Reserve Board, become member banks of any one of the reserve districts".
>
> Volume 38, Statutes at Large, Page 271

National banks located in Alaska or "outside the continental United States" may remain non-member banks at their discretion, or they may (again at their discretion) volunteer to become member banks (except in the Philippines, where the banks therein could not join in the Federal Reserve system at all).

National banks in the continental United States (except in Alaska) which did not accept the terms and provisions of the Federal Reserve act within one year of the act's passage, however, "shall be declared dissolved" under Section 2! Volume 38, Statutes at Large, Pages 252 & 253

Thus, only within the continental United States (not counting Alaska) was it mandated that all banks join the Federal Reserve system monopoly *or dissolve*.

Anywhere where a bank had discretion to remain apart from the Federal Reserve, executive order number 6102 *could not operate*, for no bank which did not voluntarily agree to enter into an agreement with the Secretary of the Treasury to send in gold to the Treasury to meet the bank's obligations could be forced to send in gold to the Federal Reserve banks under executive order 6102.

It was thus not merely coincidental that executive order number 6102 of April 5, 1933 operated only within the continental United States, as this jurisdiction coincided precisely with the actual authority provided for the member banks of the Federal Reserve system.

This is why American territories were excluded from gold prohibition, because the Federal Reserve system was not empowered to operate a monopoly in these areas outside the continental United States.

Thus, the power of Congress was irrelevant in supporting the executive order, it only mattered the power of the Federal Reserve! This is because executive order number 6102 was but an effect based upon contractual obligations freely entered into by the parties involved.

The Federal Reserve could not dictate to non-member banks in American territories which were yet allowed to operate outside of the Federal Reserve system, even though these banks were otherwise under the authority of Congress.

Gold "confiscation" in the United States only legally reached the small, member banks of the Federal Reserve system and their shareholders who were obligated to send gold to the central Federal Reserve bank of their district to cover their banking liabilities.

Gold ownership was never prohibited to any American citizen living within the jurisdiction of any State of the Union; nor can it ever be!

Our Constitution was crafted and ratified to create a government ultimately designed to *protect* persons and property, not create an oppressive tyranny *which may confiscate property at will,* thereby enslaving persons (defined broadly)!

This concludes our primary discussion regarding the gold confiscation acts, resolutions, orders and proclamations, showing them to all be but clever bits of deception (using the most generous and polite terms possible).

However, other later actions yet did further damage, such that they should be briefly discussed also (even if they are of far less consequence).

Section G: 1933, May 12 Act

The next bombshell for Congress to drop on our free American economy was the act of **May 12, 1933**, which was for increasing "agricultural purchasing power" (and people today still question why the 1929 depression became Great!).

Though outside the scope of this work (and beyond the current understanding of this author), it should noted for future "food for thought" that agricultural-based expansions of power are a curious breed.

For example, *why was the Secretary of Agriculture included with the Secretary of the Treasury and Comptroller of the Currency in establishing the Federal Reserve banking districts in the 1913 Federal Reserve Act?* While the latter two make sense, the Secretary of *Agriculture* does not (at least without the accurate knowledge of why he was actually included).

Out-of-the-ordinary things such as this are clues to be explored in minute detail, for they seldom fail to provide key information to understanding the true workings of deceptive legislation.

Section 2 declared it to be the policy of Congress to "establish and maintain…balance between production and consumption of agricultural commodities" as farmers began being paid not to raise crops and the actions of the Secretary of Agriculture were specifically held not to be in violation of the antitrust laws of the United States.

Section 43 (b) (2) authorized the President "in his discretion", to, among other things:

> "By proclamation to fix the weight of the gold dollar in grains nine tenths fine and also to fix the weight of the silver dollar in grains nine tenths fine at a definite fixed ratio in relation to the gold dollar…in no event shall the weight of the gold dollar be fixed so as to reduce its present weight by more than 50 per centum."
>
> Volume 48, Statutes at Large, Pages 52 - 53

This was the stated authority for President Roosevelt's January 31, 1934 proclamation number 2072 fixing the weight of the gold dollar at 15 5/21 grains of gold nine tenths fine.

Again, the Constitution does not allow Congress the ability, certainly within the United States of America as the term is understood by the Constitution, to delegate their legislative power vested with them by express wording in the Constitution, over to any officer of the executive branch, including the President.

Section H: 1933, June 5 Resolution

In the Joint Resolution of June 5, 1933, Congress nominally sought to abolish gold clauses within contracts, stating that the subject was subject "to proper regulation and restriction" because such clauses "affect the public interest".

Congress asserted that gold clauses:

> "obstruct the power of the Congress to regulate the value of money of the United States, and are inconsistent with the declared policy of the Congress to maintain at all times the equal power of every dollar, coined or issued by the United States, in the markets and in the payment of debts."

Volume 48, Statutes at Large, Page 112

Therefore, Congress resolved that:

> "every provision contained in or make with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency…is declared to be against public policy".

Ibid., Page 113

Of course, if ownership of gold coin was prohibited by the April 5, 1933 executive order and all persons delivered their gold to a member bank of the Federal reserve system, then no one would have gold for payment on gold clauses (except for small contracts), and no one receiving the gold could keep it (again, except for small amounts).

Of course, definitions for the resolution were provided in **(b)** of **Section 1**, stating:

> "the term 'obligation' means an obligation (including every obligation of and to the United States, excepting currency) payable in money of the United States; and the term 'coin or currency' means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations".

Ibid.

Isn't it nice to know that 'obligation' "means an obligation (including every obligation…)"? Members of Congress certainly seem to go out of their way to be informative…

The United States are not empowered under the Constitution to prohibit the use of gold as money for throughout the country.

One should understand that an "obligation" was defined for the purposes of the resolution to mean only that which was noted within parentheses "(including every obligation of and to the United States, excepting currency)".

This meant that the government of the United States, both in payments due it and payments due by it, would no longer honor gold clauses. Thus anyone wanting to do business with the government must be willing to accept payments in the currency of the United States, defined here as Federal Reserve notes, circulating notes of the Federal Reserve banks and circulating notes of national banking associations. This would not extend to previous obligations wherein the government had promised to pay out in gold (in their gold bonds [bonds where principal and interest were paid in gold], etc.).

No one paying money to the government had to pay in gold and the government would not pay out gold. Private contract and private debts had nothing to do with the resolution (nor State and local government concerns).

Section 2 of the **June 5, 1933 resolution** amended Section 43 (b) (1) of the May 12, 1933 act to read:

> "All coins and currencies of the United States (including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations) heretofore or hereafter coined or issued, shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues, except that gold coins, when below the standard weight and limit of tolerance provided by law for the single piece, shall be legal tender only at valuation in proportion to their actual weight."
>
> *Ibid*.

Here in Section 2 of the June 5, 1933 resolution of Congress, one finds the new "things" which are legal tender money for the United States (the District of Columbia).

Here is the absurd situation of Federal Reserve notes not redeemable in gold being a legal tender for all debts, public and private, but that gold coins (which supposedly could no longer be held, except for the most minimal of exemptions), when below the standard weight and limit of tolerance were legal tender only at valuations in proportion to their actual weight.

Thus a paper note irredeemable in gold was worth 100% of its stated value, but a gold coin abraded to 97% weight was valued only at 97% of its stated value.

Every bit as absurd was that gold was supposedly confiscated and prohibited (other than $100 per person, etc.), yet it was still being made a legal tender for payment of all debts.

Again, this declaration of this made a legal tender was applicable only within the exclusive legislative jurisdiction of the United States.

Only gold and silver coin may be declared a legal tender in the United States as defined by the Constitution (by the States).

Section I: 1933, August 28 E. O. No. 6260

Next in chronological order came the August 28, 1933 executive order number 6260. Section 11 revoked the April 5, 1933 executive order number 6102, leaving executive order 6260 operating in its place.

The area of greatest difference between the two orders was that executive order 6102 actually "required" all persons to deliver their gold to a bank, *whereas* executive order 6260 merely did "hereby prescribe the following provisions for the investigation and regulation of the hoarding…of gold…by any person within the United States or any place subject to the jurisdiction thereof".

Whereas order number 6102 directly prohibiting "the hoarding of gold…within the United States by individuals, partnerships, associations, and corporations", its **executive order number 6260** replacement, in **Section 5** stated that (except as exempted under Section 3):

> "After thirty days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any

> person subject to the jurisdiction of the United States, except under licensed therefor issued pursuant to this Executive Order".

Recall the many earlier definitions of the United States all included within the definition of "the United States" any "*place* subject to the jurisdiction thereof."

Here in **Section 5** of the August 28, 1933 executive order number 6260, however, it finally and candidly admits to *persons* being *subject* to the jurisdiction of the United States, stating:

> "no person shall…retain any interest…in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any *person* subject to the jurisdiction of the United States."

Article III, Section 2, Clause 1 of the Constitution acknowledges that while "foreign States" may have "Citizens *or* Subjects", this clause of the Constitution yet concedes (with also Art. I:2:2; Art. I:3:3; Art. II:1:5; & Art. IV:2:1) that the United States have only "Citizens".

The American colonists, originally but British "subjects", revolted in favor of self-government, for a Republican Form of Government where citizens determined the extent of powers allowed the government (<u>not</u> government determining the extent of privileges allowed its subjects).

Now, under President Roosevelt's executive order number 6260, however, Franklin Delano Roosevelt specifically referred to persons being "subject" to the jurisdiction of the United States, of persons being reduced again to mere "subjects", returning us to slavery, now under our masters the federal state.

The Civil War did make citizens and slaves more equal; however, instead of bringing liberty to the slaves, it merely set in motion efficient means to turn citizens into slaves, subject instead not to private masters, but their omnipotent master, the state.

Slavery was much less a cause for war than merely an effective means to the end, being absolute domination and immense profit.

Do not kid yourselves that the moneyed North was so caring about Southern slaves that they would go to war over such a moral travesty (even though there were many individuals who would do so).

A "subject" of government has but the duty to follow the commands of the government which is superior to the people and has only such privileges as are allowed by the sovereign. There are no such things as unalienable rights when a person is but a government subject.

The government which has *subjects* is one that rules over them with absolute authority to do all that may within its unlimited discretion. Everything is up for debate in such a society, nothing is held sacred and off the table.

Executive order number 6260 at least had the accuracy to call things as they were; that any American subject to such an order was no longer a Citizen, but a mere subject.

Executive order number 6260 of August 28, 1933 actually took its cue from the **14th Amendment** to the U.S. Constitution, ratified on July 9, 1868 (just after the Civil War), which reads, in pertinent part (italics added):

> "All *persons* born or naturalized in the United States, *and subject to the jurisdiction thereof*, are citizens of the United States and of the State wherein they reside".

Being *persons* thus "*subject* to the jurisdiction" of the United States is especially harmful anytime one defines the United States as the exclusive legislative jurisdiction areas, for the person, by holding themselves to be a "citizen thereof," thereby *subjects* themselves to that jurisdiction (becoming but a mere subject).

Therefore, when admitting oneself to be a "citizen of the United States", it is extremely critical to know the precise meaning of the United States for the purposes of that admission!

This "subject" no longer has much protection of government acting in excess of the Constitution because normal constitutional limitations do not apply within the exclusive legislative jurisdiction of the United States.

It is generally much safer to hold oneself out to be an American, or, if applicable, a "natural-born citizen" (see Article II, Section 1, Clause 5 where this latter term is offered as an alternative to a "Citizen of the United States").

Thus people often unwittingly "volunteer" or admit themselves to falling within the authority of the exclusive legislative jurisdiction of the United States (which is how the reach of these otherwise local laws are thus expanded beyond their limited geographical areas, by reaching those persons who subject themselves to that authority, wherever they are located).

As stated earlier, Section 7 of executive order 6260 specifically exempted the American territories from effects of the gold prohibition. Section 7 stated that Sections 3 and 5 of the order "shall not apply to gold coin, gold bullion or gold certificates which are situated in the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the United States Virgin Islands, and are owned by a person not domiciled in the continental United States" (Hawaii then being but a territory).

Section 7 also stated that the provisions of Section 4 of the order did not apply to acquisitions by persons within the same American territories listed above, of gold coin or gold bullion which has not been taken or sent since April 5, 1933, from the continental United States or any place subject to the jurisdiction thereof.

Section 11 revoked the Executive Order of April 5, 1933, with this order 6260 thereby replacing that authority.

Executive order number 6260 could no more prevent American Citizens from owning and using gold than its predecessor.

Section J: 1933, December 21 Proclamation No. 2067

On December 21, 1933, President Roosevelt acknowledged the results of the long-called-for World Economic and Monetary Conference, where representatives of 66 world governments agreed July 20, 1933 for governments "to abandon the policy and practice of melting up or debasing silver coins" and that "low valued silver currency be replaced with silver coins and that no legislation should be enacted that will depreciate the value of silver".

Further, the United States, China, India, and Spain, as the "holders and users of large quantities of silver" and Australia, Canada, Mexico, Peru, and the United States as the "chief producers of silver", wherein China agreed not to dispose of silver derived from the melting up or debasement of silver coins, and India agreed not to dispose of over 35 million ounces of silver per year for four years, with both China and India agreeing they would subject themselves to the general resolution adopted at the London Conference.

In return, the five producing countries agreed to "absorb from their respective countries" the 35 million ounces, with the United States agreeing to absorb "at least 24,421,410 ounces of silver produced in the United States".

President Roosevelt directed the mints of the United States to coin into silver dollars any silver which the mint receives which had been mined after the proclamation date from "natural deposits in the United States or any place subject to the jurisdiction thereof".

The Director of the Mint, "with the voluntary consent of the owner", was ordered to "deduct and retain of such silver so received fifty percent as seigniorage and for services performed by the Government of the United States relative to the coinage and delivery of silver dollars" (with the "owner or depositor" of the silver receiving the remainder of the silver coins so struck).

Section K: 1934, January 30 Act

The Gold Reserve Act of 1934 was enacted January 30, 1934 (48 Stat. 337).

The greatest significance of the act was found inconspicuously in Section 15, wherein the term "United States" was specifically defined to mean "the Government of the United States".

In differentiation, the term "the continental United States" was defined to mean "the States of the United States, the District of Columbia, and the Territory of Alaska".

Because the "United States" was specifically defined within the act to mean "the Government of the United States", anytime the "United States" was used within the act, "the Government of the United States" *must be understood as the true, correct meaning*.

To include the States of the United States, the term "continental United States" had to be used.

Thus, when Section 15 later spoke of "currency of the United States", it legally meant, of course, the "currency of the Government of the United States".

"Currency of the United States" — i.e., "currency of the Government of the United States" — was detailed by **Section 15** of the **Gold Reserve Act of 1934**, and stated to include:

> "United States notes, Treasury notes of 1890, gold certificates, silver certificates, Federal Reserve notes, and circulating notes of the Federal Reserve banks and national banking associations".

Thus, one finds that within the exclusive legislation jurisdiction for the Government of the United States, the following are its legal tender: United States notes, Treasury notes of 1890, gold certificates, silver certificates, Federal Reserve notes, and circulating notes of the Federal Reserve banks and national banking associations.

The most widely-held section of the Gold Reserve Act of 1934 of greatest importance was found in **Section 5**, which stated that:

> "No gold shall hereafter be coined, and no gold coin shall hereafter be paid out or delivered by the United States: *Provided, however*, That coinage may continue to be executed by the mints of the United States for foreign countries in accordance with the Act of January 29, 1874 (U.S.C., title 31, sec. 367). All gold coin of the United States shall be withdrawn from circulation, and, together with all other gold owned by the United States, shall be formed into bars of such weights and degrees of fineness as the Secretary of the Treasury may direct".

At least at first blush, it would appear that members of Congress were here directing that "no gold shall hereafter be coined…by the United States" and that "all gold coin of the United States shall be withdrawn from circulation".

As history provides the proof that both of these things occurred, this would seem to be the end of the matter.

Under the April 5, 1933 executive order number 6102, private citizens were supposedly prohibited from owning all but the smallest amounts of gold. Now, under the January 30, 1834 Gold Reserve Act, all gold coin was supposedly ordered to be withdrawn from circulation and the mints were seemed to be ordered to stop striking gold coin for domestic use.

And for four long decades, this was exactly the sad state of American affairs with gold. For nearly eight decades, no one has seemed to question this misunderstood meaning.

Two matters come into play, however, which prove otherwise.

First was the explicit proviso regarding the allowance of continued minting of foreign coin by the mint.

Recall the definitions provided by Section 15 of the act as covered a moment ago, that whenever the term "United States" was listed within this act, that it actually meant "the Government of the United States".

Thus, when reading the proviso, "No gold shall hereafter be coined…by the United States", what this legally meant was only that "No gold shall hereafter be coined, by the Government of the United States".

Further, when “coinage may continue to be executed by the mints of the United States for foreign countries in accordance with the Act of January 29, 1874”, this meant that “coinage may continue to be executed by the mints of the government of the United States for foreign countries in accordance with the Act of January 29, 1874”.

Thus, even if the mints of the Government of the United States were not to mint gold for the Government of the United States, they could continue to mint gold for “foreign countries”.

Realize that the Article I, Section 8, Clause 17 jurisdiction as the seat of the Government of the United States is foreign to that for the United States (defined therein as the “continental United States”); it is thus not necessarily altogether improper to consider them foreign countries to one another.

If these two legally-separate jurisdictions must be considered as foreign countries to avoid constitutional infirmary, then certainly it would be thusly done (or the act would alternatively be declared unconstitutional), at least if the issue was ever properly brought before a court.

The second matter continues on this same theme, that “all gold coin of the United States shall be withdrawn from circulation”, really means then only that “all gold coin of the Government of the United States shall be withdrawn from circulation” and melted into bars.

Congress may perhaps decide to pull out the government’s own gold coin out of their government stores and melt it, at least if they are able to find willing suppliers who will accept the government’s non-redeemable paper dollars, but this does not imply that the government may prohibit the circulation of gold between willing and able private parties.

The Gold Reserve Act of 1934 was again but clever actions of legal deception; gold was not legally prevented circulation in the United States of America.

Section L: 1934, January 31 Proclamation No. 2072

On January 31, 1934, after essentially all the American gold had been taken to federal depositories by way of the Federal reserve banks, President Roosevelt, citing authority by way of Section 43, Title III of the act approved May 12, 1933, as amended by Section 12 of the Gold Reserve Act of 1934, did “hereby proclaim, order, direct, declare, and fix the weight of the gold dollar” — greater than any tyrant, despot, dictator, oppressor or autocratic ruler — “to be 15 5/21 grains nine tenths fine”.

With the old gold dollar of 25.8 grains gold nine-tenths fine (or 23.22 grains of fine gold), the new dollar of only 15 5/21 grains (15.238 grains standard gold [13.7142 grains of fine gold]), became only 59% of the former.

Whereas one ounce of fine gold had been worth $20.67 (480/23.22), now it was worth $35.00 per ounce (480/13.7142).

For every $100 of the old gold dollars on hand, now that same amount of gold became worth $169.31 — not bad profits on all the accumulated gold, at the mere stroke of a pen.

This proved to be quite a lucrative arrangement between despicable government and its licensee, the shareholders of the Federal Reserve system (not necessarily the shareholders of the minor member banks). No matter that the American republic was cast aside in the process, and the American people were made mere serfs…

Again, since the power to regulate our money is vested by the Constitution in Congress, Congress cannot delegate this authority to the Executive (remember, Article I, Section 6, Clause 2, which prevents any officer from becoming a member of either house [therefore any officer from exercising any authority vested with those members]).

The American dollar remains today a coin of 25.8 grains of gold 900 fine, or a coin of 412.5 grains of 900 fine silver.

Section M: 1965, July 23 Act

The Coinage Act of 1965 eliminated the striking of silver dime and quarter coins, instituting in their place coins with an outside cladding (not less than 30% by weight) of 75% copper and 25% nickel around a core of copper.

In the fifty-cent coins, a cladding of 800 parts silver and 200 parts copper surrounded a core of 4.6 grams of silver and 6.9 grams of copper (for a coin 40% silver by weight [until it was changed by 1971 to also be of copper and nickel cladding around a copper core]).

Subsection (b) of Section 101 of the act allowed continued minting of the 900 fine silver half dollars, quarter dollars and dimes "only until such dates as the Secretary of the Treasury determines that adequate supplies of the coins authorized by this act are available", but that "in no event later than five years after the date of enactment of this act".

Subsection (c) of Section 101 of the act stated that "No standard silver dollars may be minted during the five-year period which begins on the date of enactment of this act."

Interestingly enough, Section 303 ordered the Joint Commission (created in section 301), besides other purposes, to study "renewed minting of the silver dollar" as well as "the time when and circumstances under which the United States should cease to maintain the price of silver" (thereby finally dropping attempts to maintain a silver parity to gold).

Section 102 of the **July 23, 1965 act** stated that:

> "All coins and currencies of the United States (including Federal Reserve notes and circulation notes of Federal Reserve banks and national banking associations), regardless of when coined or issued, shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues."
>
> Volume 79, Statutes at Large, Page 254

Section 102 is the now familiar listing of legal tender money for the exclusive legislative jurisdiction of Congress, for the District of Columbia.

Section 105 (a) authorized the Secretary of the Treasury whenever in his judgment it was necessary, to prescribe rules and regulations "to prohibit, curtail, or regulate the exportation, melting, or treating of any coin of the United States".

Section 105 (b) again imposed the infamous $10,000 fine and/or imprisonment for no more than five years to "Whoever knowingly violates any order, rule, regulation or license issued pursuant to subsection (a) of this section".

Section 106 (a) authorized the forfeiture of any coins exported, melted or treated in violation to such rules.

The Coinage Act of 1965 provided no real clues as to its operating jurisdiction, other than the familiar words of acts past (such as imposing legal tender qualities beyond gold and silver coin, the absolute discretion of government officials to impose rules and regulations at will without recourse by private citizens at the election box, etc.).

This act operated only within the exclusive legislative jurisdiction of the United States (at best).

Americans are free to melt their gold and silver coin, spend it, give it away, etc., for it is their property which the government cannot take away except by due process (and just compensation is not giving paper for gold or silver). Neither are Americans subject to the discretion of any government official for their property (which can only be taken by due process and just compensation).

Americans obviously in the past (1834 and 1853) melted their coin; those in the present may do the same.

Section N: 1973, September 21

President Nixon, in a live televised speech on August 15, 1971, stated that:

> "I have directed Secretary Connally to suspend temporarily the convertibility of the dollar into gold or other reserve assets, except in amounts and conditions determined to be in the interest of monetary stability and in the best interests of the United States…The effect of this action, in other words, will be to stabilize the dollar."

Nixon's closure of "the gold window" for foreign governments (no longer honoring the convertibility of the U.S. dollar into gold for foreign governments), of course, brought about the opposite course of action, destabilization of the dollar.

Freed now from all restraints of gold convertibility, the value or purchasing power of the paper dollar plummeted as inflation became rampant.

In the United States of America, the President may not simply and arbitrarily "direct" some department head to take a course of action which involves regulating the value of our money. This is the very epitome of tyranny and all those who exercise such power are the very definition of a tyrant.

That the President with his advisors decided to "temporarily" suspend the "convertibility of the dollar into gold", of course, does not affect the dollar of the United States of America, which is but a coin of either gold or silver, and whose value is determined solely by legislative action under the power of Article I, Section 8, Clause 5 of the U.S. Constitution.

That so many of our American Presidents, all of whom take an oath of office to "preserve, protect and defend the Constitution of the United States", practice such acts of tyranny has certainly not been healthy to American liberty.

The act of September 21, 1973 (87 Stat. 352) changed the ounce of gold equivalent to $38.00 established under the Par Value Modification Act of March 31, 1972 (86 Stat. 116) to now be forty-two and 2/9ths dollar per ounce, or $42.22 per ounce (for the District of Columbia dollar).

Section 3 repealed sections 3 and 4 of the Gold Reserve Act of 1934 and invalidated all other rules, regulations, or order which prohibited any person from "purchasing, holding, selling or otherwise dealing with gold", to take effect when the President reports to Congress that "international monetary reform shall have proceeded to the point where elimination of regulations on private ownership of gold will not adversely affect the United States' international monetary position".

This section removed the government's prohibition against American subjects owning gold. After effective removal of gold from circulation for 40 years, private ownership of gold was once again "allowed" (though, of course, not for actual circulation as our money).

Section 4 of the act stated that the "increase in the value of the gold held by the United States…shall be covered into the Treasury as a miscellaneous receipt".

Section O: Court Cases

Since we earlier briefly examined a few court cases regarding the legal tender acts, it is perhaps appropriate to now look into also a few cases which involved the gold confiscation, including the 1935 cases of *Nortz v. United States* (Volume 294, United States Reports, Page 317), *Perry v. United States* (294 U.S. 330), and *U.S. v. Bankers' Trust Co.* (294 U.S. 240).

The bottom line is that no case was fought on the correct grounds of exposing the deceptive gold confiscation for what they were, as herein shown, and thus the plaintiffs could not then expect to win.

Added to this were errors of strategy, such as the plaintiff in *Nortz* seeking the currency equivalent of not $106,300 of gold to which he was entitled by the face value of his gold certificates, but he asked for an additional $64,334.07 ($170,634.07 total) *in non-redeemable currency* (he was, in essence, demanding a share of the inappropriate profits of gold devaluation).

The point is not to obtain a share in the inappropriate, but obtain the appropriate (in this case, the actual amount of gold due plaintiff).

Another grave error was the following concession made by Nortz:

> "Plaintiff explicitly states his concurrence in the government's contention that the Congress has complete authority to regulate the currency system of the country. He does not deny that, in exercising that authority, the Congress had power 'to appropriate unto the Government outstanding gold bullion, gold coin and gold certificates.' Nor does he deny the Congress had authority 'to compel

all residents of this country to deliver unto the Government all gold bullion, gold coins and gold certificates in their possession'."

Nortz may have admitted such, but this author certainly does not! With such a concession, he could surely not expect to win his case.

The Fifth Amendment to the U.S. Constitution admits that government may take private property for public use, but it specifically requires that just compensation must be paid.

The taking of gold money and offering non-redeemable paper notes in return is in no way just compensation.

Since plaintiff Nortz incorrectly conceded improper critical facts and improperly asked for "a share of the wealth" which no entity should have received, this case is of no use in regaining our liquid property.

Perry, though he correctly first demanded $10,000 payable in dollars of gold of 25.8 grains of 900 fineness to which his gold-backed bonds rightfully afforded him, later he asked instead for payment in 16,931.25 gold dollars of 15 5/21 grains 900 fine (no such gold dollars at such rate were ever struck), or $16,931.25 dollars in (non-redeemable) legal tender currency (again wanting a share of inappropriate profits (he was certainly entitled to every grain of fine gold his contract stated, but not a higher face value in currency [even if he could *later* trade his received gold for a higher face value in that new currency rate]).

The Court of Claims certified the question in *Perry* (italics/underscore added):

> "Is the claimant…entitled to receive from the United States an amount ***in legal tender currency*** in excess of the face value of the bond?"

Even with that sure-to-lose question, however, the supreme Court reviewing the lower court's opinion nevertheless threw Perry a very large bone.

The court, in regards to discussion that Congress may unilaterally disregard the government's obligations at their own discretion, stated that "This Court has given no sanction to such a conception of the obligations of our government" and that they "do not so read the Constitution" as allowing such a practice.

That being the case, the Court stated that:

> "We conclude that the Joint Resolution of June 5, 1933, in so far as it attempted to override the obligation created by the bond in suit, went beyond the constitutional power".

The *Perry* Court was a partial win stating that the government's obligations cannot be unilaterally ignored, and when the principal and interest were payable in gold, the government cannot nullify that obligation by the methods of the June 5, 1933 resolution.

However, since the first question, whether Perry was entitled to "an amount *in legal tender currency* in excess of face value of the bond" was properly answered in the negative, the court did not reach to the second question, whether the resolution seeking to abrogate gold clauses was proper.

U.S. v. Bankers' Trust Co. dealt with gold clauses in respect to contracts for the payment of gold; i.e., testing the validity of the Joint Resolution of Congress of June 5, 1933.

First the court acknowledged that the parties to the gold bond contracts "did not anticipate the existence of conditions making it impossible and illegal to procure gold coin with which to meet the obligations" (*U.S. v. Bankers' Trust Co.,*294 U.S. 240 @ 298).

It is likely true that before it was actually attempted, few persons ever thought government instituted to protect persons and property would ever resort to such high-handed actions as few dictators would ever attempt, to confiscate all gold in the land of the free and home of the brave.

Thus, it is no wonder that while gold bonds specifically protected against the case of the gold dollar being devalued from its present 25.8 grains of gold nine-tenths fine, none likely anticipated gold ownership being prohibited to "persons" held by practice to include everyone.

The *Bankers' Trust* court, like the legal tender cases, also brought up the act of June 28, 1834 (which had established new rates for the gold dollar), using this act again for nefarious purposes, now to justify removing all gold from trade.

The court, in concluding that the government had power to abolish gold clauses, however, expressly and importantly stated that "certainly it is not established that the Congress arbitrarily or capriciously decided that such an interference existed".

The fact that it was not established in court that Congress acted arbitrarily or capriciously then cleared the way for the court to opine that they thought "that it is clearly shown" that gold clauses "interfere with the exertion of the power granted to the Congress".

What if the information presented in this book would have been argued in court; is it possible the court would have perhaps concluded differently, that Congress did act in an arbitrary or capricious manner, and thus would come to an entirely different opinion regarding gold clauses?

This author has not spent a great deal of time expounding upon precedent-setting court cases, simply because far too many of them have a political agenda to uphold, and thus are nothing little more than additional sleights of hand to approve improper government activity.

If fought incorrectly without the proper knowledge, the chances for success are slim to none.

Besides, this author need not expend his time where he has little competence, especially while there are tens and hundreds of thousands of attorneys who spend their whole professional careers arguing cases in court. But, if that route (within present knowledge) could have corrected our ills, it would have been accomplished long ago…

Knowledge is of utmost importance in our fight for liberty. We must make sure we fight from the correct positions. Once we get the game plan right, then perhaps successful court battles will actually produce lasting effect.

It should be now well-understood how so easy it is to be made the dupes of sounds, as names begin to be substituted for things. Definitions of terms become absolutely crucial to understand in a government which attempts to deceive legally, to do whatever it wants.

Section P: Finding Harley

One of the best and clearest examples of such a process of defining words other than as commonly understood is given by the following simple test based upon a real story. Please take the following "Finding Harley" test:

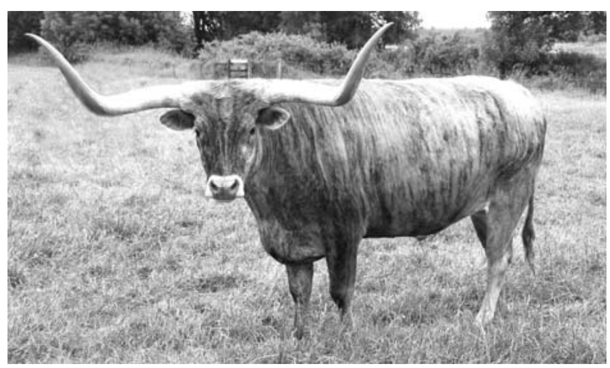
Which of the following shows a picture of a dog?

A.

C.

B.

D.



Please mark your answer if you are able, before continuing on to the next page.

A.

B.

C.

D.

The rest of this page is intentional left otherwise blank, signifying the normal end of the test.

Because most people know dogs so well, finding no pictures of animals they recognize to be of a dog, many people taking the test will undoubtedly realize that there is something "fishy" going on, as the four listed alternatives look woefully incomplete.

What if, after extensive searching through reams of paperwork (including this page), one uncovers another possible answer; would things perhaps now seem more reasonable?

With the next possible answer below, are you now able to complete the test?

E. None of the Above

If you are now able to pick your answer to this illuminating test, please do so now.

A.

B.

C.

D.

E.

If you answered “E. None of the Above”, you are probably happy that your “dogged determination” in researching through reams of government documents allowed you to search for all the available answers before you came to a decision.

However, please understand, this author acting in this case as the court for grading the test must state that “E” is the *wrong* answer.

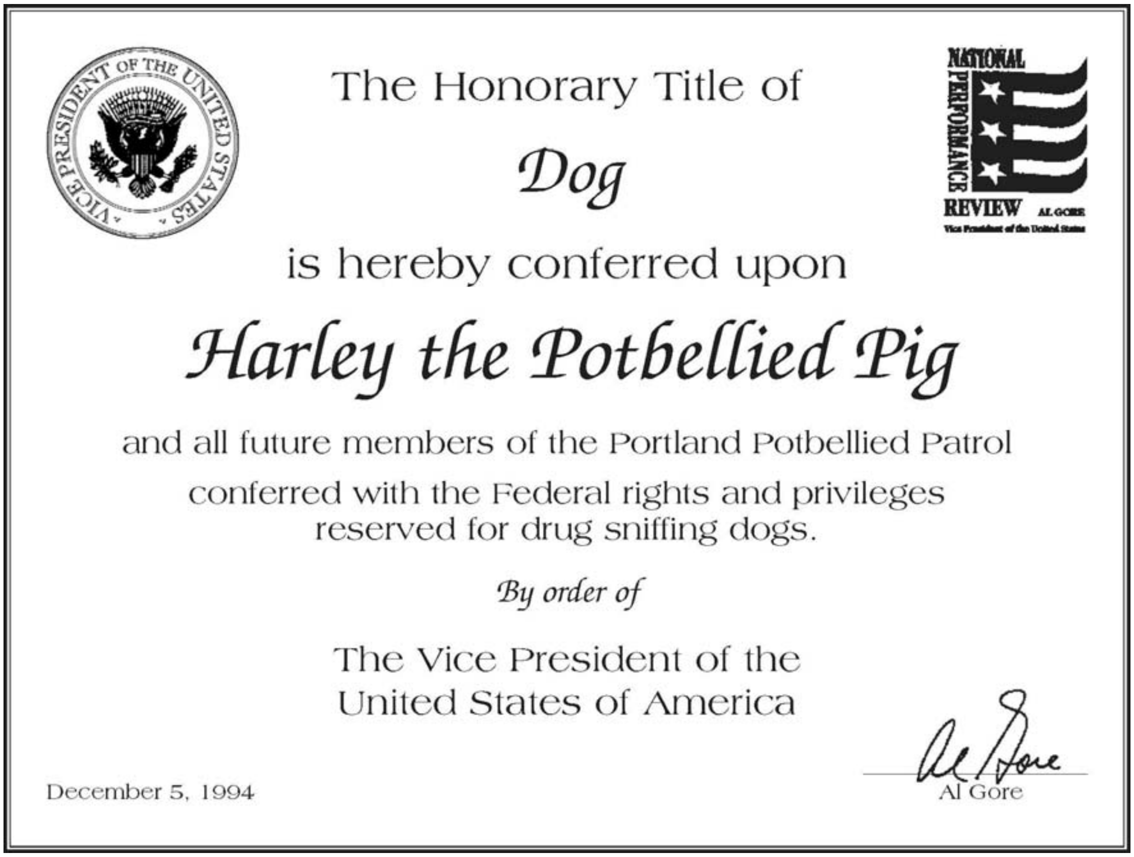
By now the test-taker may be upset, arguing that the test or game is rigged — of course it is rigged — that is precisely the point (especially where money and power control are concerned).

The most disgruntled of test-takers may even charge that the test-writer and the judge grading the paper are unconstitutionally exercising power never granted them. They may fume about the arrogance of the test-writers and judges and decide to quit taking such tests in protest.

What the displeased test-taker failed to do was to look for the single instance where the given answer or actions were actually correct, where the action under examination did not actually “violate the Constitution”.

If there is but one legitimate example, then the matter can stand (though it is only legally applicable for that one instance and is actually illegitimate in all other situations [even if most people incorrectly act as if it is everywhere applicable]).

The test-taker who failed simply didn’t dig far enough in this chapter to find the “key”, as shown on the next page:



The Honorary Title of

Dog

is hereby conferred upon

Harley the Potbellied Pig

and all future members of the Portland Potbellied Patrol
conferred with the Federal rights and privileges
reserved for drug sniffing dogs.

By order of

The Vice President of the
United States of America

December 5, 1994

Al Gore

The background to the story behind the actual Vice-Presidential order was that the Portland, Oregon police department wanted to try and use pot-bellied pigs for sniffing out drugs. Since pigs, with excellent olfactory skills, are often used to sniff out truffles, *why not try them for sniffing out not-so-fine treats as street drugs?*

Of course, in an era when no local government would dare pay for their own pet projects, Portland went searching for available funds, finding only federal funds available for drug-sniffing dogs.

When the legislation which made available federal funds for training and use of drug-sniffing dogs weren't so easily-modified to include pigs, Vice-President Al Gore stepped in to save planet earth and conferred an "honorary title" of "dog" on Harley and all future fellow members of the Portland Potbellied Patrol. Thus, "federal rights and privileges reserved for drug-sniffing dogs" were thus expediently transferred to pot-bellied pigs, and "pigs" became "dogs", *for the express purpose of federal expenditures for drug-sniffing dogs*.

Thus, because the term "dog" was actually defined for such limited purposes to include potbellied pigs for this one purpose, the correct answer to our simple test above was "B".

What, didn't you read the extremely fine print offering a hint, found after the question mark in the original question to the test?

To find the clue, enlarge the font size following the question mark in the question (or use a powerful magnifying glass).

This example is a very simple case in point of the power of "substituting names for things" for a very specific political purpose.

It is easy to comprehend simply because of most people's extreme familiarity of dogs.

The more familiar one is with the Constitution, the more easily one will also understand when some clever trick is similarly being used there to make end runs around it. Thus the importance why one must learn the Constitution!

When one determines "something fishy is going on" in government, one must thoroughly investigate the matter until the bypass mechanism used to get around constitutional limitations is understood.

Another example helping to convey the principle of the "United States" being defined to mean the exclusive legislation jurisdiction is provided by the 1992 Disney movie Aladdin.

In this movie, the Genie appears all-powerful, but then one realizes that he has arm-bands, which actually but shackle him into servitude. The Genie has not powers of his own accord and will, but has the duty to follow his master.

The United States Constitution is the arm-bands which shackle the U.S. Government. The State governments are the ultimate master (though they have delegated the day-to-day responsibilities over to Congress, the President, and the courts).

The U.S. Government's "bottle", the domain where this genie has the greatest of powers, is that area no greater than ten miles square for the seat of government, the District of Columbia.

When the Genie comes out of his bottle to serve his master, the U.S. Constitution shackles him and he is not free to expand beyond his specified powers.

In the words of Aladdin's Genie (in the voice of actor Robin Williams), though he may have "phenomenal cosmic power", he only has only an "itty-bitty living space".

Congress needn't always necessarily follow the normal constitutional restrictions and limitations, for the Constitution was never meant to limit Congress from enacting local legislation for the seat of government and similar exclusive legislative jurisdiction areas.

This is why Congress in 1790 could enact punishments for murder, manslaughter, robbery, etc. without violating the Constitution.

The other trick, of course, is to get everyone outside of these strictly confined geographical areas to "volunteer" to that exclusive legislative jurisdiction. The 14th Amendment provides such means very nicely, holding oneself to be a "citizen of the United States" when the United States are defined in some legislative act as the District of Columbia, thereby subjecting oneself to that jurisdiction (wherever that individual is found).

Providing harsh punishments does the rest; the possibility of being wrong is made to be purposefully damaging indeed (sounds like "excessive fines" [if not "cruel and unusual punishments"] prohibited by the Eighth Amendment, to this author).

Only by learning the Constitution well so one knows when it isn't being followed may one first have a chance to know when things stray from the mark. At that point, further examination must occur to figure out how to get things back where the compass again points north.

That said, study the Constitution!

Of great importance is that we need to repair our constitutional compass so we can get our bearings straightened out, so we do not stay lost walking in the wilderness of tyranny for another 140 years!

Thankfully, the Constitution is actually alive and quite well (it is just found under a whole mess of laws, codes, regulations, orders, proclamations and every other possible piece of paperwork, improperly piled on top of it).

We must brush aside all that is applicable only for the seat of government and like properties (which, fortunately, is the vast majority of all that is wrong in our country).

While many people, groups, and even political special interests have actually been steadily working at independently trimming the individual branches of the separate trees in the massive overgrown forest of tyranny emanating from the District of Columbia, it is high time that highly efficient logging machinery be brought in to clear-cut the groves outside the seat of government, leaving stand only those trees constitutionally-authorized.

The danger of failing to clear out all the desiccated wood is that a single match may inadvertently ignite the whole affair, likely destroying both the good and the bad (while giving us the down-right ugly).

Learn well then the Constitution, the government's rule book by which they MUST follow, even when it appears they don't.

Remember, do not be caught up with all the intended distractions and purposeful sleights of hand; it is all for show and entertainment.

Section Q: Oath of Office

This author has one more matter of deception saved for discussion, that of legislative members taking an "oath of office".

This subject is being saved for mention last, even though it was one of the first chronologically, frankly because this author doesn't yet know what to make of it.

As was clearly shown in Chapter 1, legislative members are not and cannot be officers, for no officer of the United States may exercise <u>any</u> legislative authority of the United States.

Recall **Article I, Section 6, Clause 2** reads (italics added):

> "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; *and No Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office*."

With that said, what is it then, with members of Congress taking the following oath of "Office"?

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."
>
> Title 5, United States Code, Section 3331

That legislative members stating that they will "faithfully discharge the duties of the *office* on which I am about to enter" shows they are entering some form of office (or at least anticipating doing so).

If they hold an office of or under the United States, however, they cannot be a member of either House during their continuance in office.

Thus it must necessarily follow that any office whose duties they will faithfully discharge cannot be an office of or under the United States of America.

So, what office is it, if they actually enter one? This author does not know.

The oath above was not the oath always required of Senators and Representatives, of course.

Recall that the first legislative act of the first session of the first Congress was that for the regulation and administering of oaths.

Statute I, Chapter I had this to say about the oath for legislative members:

> "That the oath or affirmation required by the sixth article of the Constitution of the United States, shall be administered in the form following, to wit: 'I, A.B. do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States'."

Volume 1, Statutes at Large, Page 23.

Congress enacted a new act regarding oaths after the onset of the Civil War (surprise!).

The act of **July 2, 1862** — "*Act to prescribe an Oath of Office, and for other Purposes*" — was the first act quoted as a source of authority for legislative members to take an "oath of office". The 1862 act merely required the new oath to be taken and subscribed by:

> "every person elected or appointed to any *office* of honor or profit under the government of the United States, either in the civil, military or naval departments of the public service, excepting the President of the United States."
>
> Volume 12, Statutes at Large, Page 502

By these express words, only "every person elected or appointed to any office" (except the President [whose oath is prescribed by the Constitution]) was required to take the oath which followed:

> "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

Because legislative members are neither elected nor appointed "to any office" (those holding legislative offices such as the Speaker of the House, etc. are not government offices, but legislative, which are wholly different), no legislative member would ever fall under any legal requirement to take that oath.

However, the First Session of the 38th Congress was the next new Congress to assemble after the said 1862 act regarding oaths was enacted. The House Journal made purposeful and specific mention that "the oath prescribed by the Constitution of the United States, *and by the act of July 2, 1862*, was administered" to the Speaker, and by the Speaker to "the members elect."

> Volume 61, Journal of the House of Representatives of the United States, 38th Congress, First Session, Page 11.

That the July 2, 1862 act was specifically mentioned must be of significance.

It should be noted that the first legal-tender greenbacks were issued on February 25, 1862; thus, those legal tender notes cannot therefore be attributed to this new oath.

As the act specifically applied only to officers, members of Congress were not directed by the act to subscribe to this particular oath — *so why did the members of this new Congress (and every Congress since) take an oath to "faithfully discharge the duties of the office on which I am about to enter"?*

Good question; unfortunately this author does not know the answer.

On July 11, 1868, Congress enacted a new oath, for any person "who has participated in the late rebellion, and from whom all legal disabilities arising therefrom have been removed by act of Congress by a vote of two thirds of each house" but who otherwise were "elected or

appointed to a office or place of trust in or under the government of the United States". The oath was:

> "I, A.B., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic ; that I will bear true faith and allegiance to the same ; that I take this obligation freely, without any mental reservation or purpose of evasion ; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."
>
> Volume 15, Statutes at Large, Page 85.

Congress directed in the act of February 15, 1871, that any person, rendered ineligible by the "provisions of the fourteenth amendment to the Constitution" (ratified July 9, 1868) were thus prevented from taking the 1862 oath, to instead take the 1868 oath. Volume 16, Statutes at Large, Page 412

Congress enacted a law later in 1876 prohibiting the giving of money by government officers to others for political purposes. Questions over this topic led to a request for an opinion from the Attorney General on whether legislative members were also thusly included within that restriction (they were not so held).

Attorney General Benjamin Harris Brewster stated that:

> "Unquestionably the station of member of Congress (Senator or Representative) is a *public office*, taking these terms in a broad and general sense, and the incumbent thereof must be regarded as an officer of the Government in the same sense."
>
> Volume 17, Official Opinions of the Attorneys-General of the United States, Page 419

This, of course, was the same opinion first espoused by the House Manager attempting to prosecute Senator William Blount in his impeachment trial in 1798. This was also the specific opinion *denied* by the Senate members sitting as a Court of Impeachment in that matter, where that Court held that Senators (and therefore Representatives) are not officers, but legislative *members*.

Attorney General Brewster, commenting on the Senate's earlier opinion on Senator Blount and obviously understanding the Constitution's take on the matter, thus immediately backed away from and then directly countered his own earlier statement, detailing that:

> "But it seems that a member of Congress is not an officer of the United States in the constitutional meaning of the term…clauses show a marked discrimination between members of Congress and officers; the latter term, in the sense in which it is there used, not including legislators."
>
> *Ibid*., Page 420.

Obviously, a "broad and general sense" can neither be "broad" nor "general" when it violates an express constitutional principle! It is certainly not "unquestionable" that a member of Congress is an officer in any sense when they are not an officer under the Constitution, the sole source of their true authority.

After enactment of the 1862 oath, after ratification of the 14th Amendment, and after enactment of the 1868 oath, the Attorney General of the United States yet acknowledged that, constitutionally, legislative members are not officers.

Why exactly, then, would the Attorney General of the United States make such an incorrect statement as first detailed on one page of his opinion, just to then counter it on the next?

Again, this author does not know, but it is apparent that the Attorney General was improperly attempting to sway opinion to the former (even though it is incorrect).

The matter of our legislative members taking an oath of office is not inconsequential, but likely offers a clue of great (and perhaps even profound) significance.

As legislative members cannot hold any office of or under the United States, *are they simply holding an office under some other authority?*

Are they holding legislative seats for the United States of America, but an office under the District of Columbia?

In order not to delay publication of ***Monetary Laws*** any longer, this author must pass on these questions (as he has not yet uncovered a definitive answer in twenty years of research on such matters).

Whatever is the answer, no officer of, for, or under the United States of America may exercise any legislative authority (and thus, our members of Congress cannot be a government officer or hold any government office [of, for, or under the United States of America]).

Chapter 13: Present and Future

Monetary Laws has exposed our storied financial past which converted us from gold and silver to use of paper as money; it is now appropriate to look to the worrisome present to work towards our bright future to reverse our course.

The questions now become:

1. *How do we restore individual liberty and limited government?*
2. *If push comes to shove and mere exposure of the mechanism of deception doesn't do the job, what do we then do to reclaim individual liberty and limited government?*
3. *How do we dig ourselves out of the financial hole into which we have placed ourselves?*
4. *Should both silver and gold money struck and what should be our monetary unit?*

1. How do we reverse course, restore individual liberty and limited government?

Since we do not wish to change but merely enforce the Constitution, the matter is rather simple in theory.

To enforce the Constitution, we must first understand it, to know the normal (the healthy). With that knowledge, we may then more easily understand when it is being transgressed, by recognizing something as abnormal (the disease). With study, we then aim to learn how the Constitution has been transgressed, so we can then properly correct matters (prescribe the *cure* back to normal health).

The Beacon of Liberty is this author's attempt to teach the Constitution from the perspective of studying legislative acts enacted during the period under which Congress best followed the Constitution (between ratification and the Civil War). Available issues of *The Beacon of Liberty* may be found online at www.FoundationForLiberty.org.

By learning how early Congresses enacted legislation according to their understanding of the specific powers granted them, one obtains a pretty good feel for the normal (there were certainly improper acts enacted during this era [for instance, the notorious Alien and Sedition Acts of 1798], but the abnormal were otherwise fewer and further between as compared with later periods). Then, studying later periods of time when more acts strayed further from the Constitution, one may develop a better picture of what is different about the latter from the former, providing key areas for concentrating one's study.

The topic of how to enforce the whole Constitution, however, is rather a tall order for any single body of work. Thus ***Monetary Laws*** has sought to primarily explore only one express power, the power "To coin Money" under Article I, Section 8, Clause 5 of the Constitution.

Monetary Laws first went into the "normal" powers of coining money, as shown by numerous early legislative monetary acts. It also detailed enactment of unsuitable political expediencies (the 1834 re-evaluation of the gold eagle yet tied to a specific dollar value and the 1853 lightening of only the subsidiary silver coin) even though they seemed to be otherwise well-intentioned (the ramifications of a bi-metallic monetary system were not necessarily widely understood by all the acting parties two hundred years ago).

Inspection then went into transition acts imposed during the Civil War era which began improprieties which began leading us down a clearly-altered path away from the intent of the whole Constitution.

Later detailed were the treacherous legislative acts and devious presidential actions which certainly had no business within the Land of the Free and Home of the Brave.

Sadly, nothing was then properly done to effectively challenge this repudiation of every concept of justice which would not sit well within any two-bit, tin-pot dictatorship, such that liberty in America herself has been unduly threatened and severely tested.

When one thinks of the Constitution (it being the supreme Law), one naturally thinks of law. When one thinks of law, one inevitably soon thinks of lawyers. This begs the question, *where have all the lawyers been in this matter — why haven't attorneys been more effective at restraining improper federal government action into the reserved power of the States and into the unalienable rights of the people*?

This author does not have any good answers, but he otherwise has a few guesses...

One reason, applicable to at least a few, is that the present unjust system increases their demand and therefore helps pad their wallets. That the status quo otherwise benefits them while constructive change (with less controversy) would likely lessen demand (thereby hindering profits) perhaps has some residual effect, even if unintentional and even if only for a few.

The second reason is that perhaps those too-few attorneys not only inclined but actually working toward liberty and limited government are so darn busy fighting individual forest fires (to keep them from spreading) that they cannot incessantly search for the proper means to keep them from being ignited in the first place.

Those relative few persons and attorneys who already understand the information in this book but haven't exposed it to the public likely remain mute for their own immense personal advantage (it is not like anything in this book is "new", after all — it was all expressly put in place by persons who knew exactly what they were doing [working towards personal gain is not a conspiracy, it is merely human nature. Unfortunately, many persons seem to not mind working for personal gain even at the immense expense of others]).

Attorneys today are so far removed from the many (especially early) precedent-setting cases that far too many of them unfortunately take for granted that those bad cases are simply beyond their ability to challenge; i.e., they tragically concede far too much abnormal today now as normal (letting the 'mistakes' of our past dictate a tragic future).

These attorneys then let the rules and procedures of the court determine not only their methodology, but even their own way of thinking, because they incorrectly think the greatest of necessary battles may only be won in a court of law.

Though undoubtedly winning important court victories will ultimately prove significant, the information in ***Monetary Laws*** need not be only exposed in a court of law to have a full and proper effect.

The information in ***Monetary Laws*** is equally important in the court of public knowledge, where court procedure which otherwise trumps all matters in a court of law has no bearing (and which keeps the courts marching on their present path toward oppression).

Working to increase the knowledge of the public, one may press *facts* rather than *process* and one is allowed to present them in an orderly manner without objection sustained by the court, so this important jury of one's peers may reach their own conclusions. Opposing counsel may certainly rebut in their own works, or they may ignore the matter and hope it goes away.

One complaint this author has with the 40,000 lawyers entering the profession in the United States each year is the manner which most of them are taught the Constitution — primarily by studying court cases. Studying court cases to begin learning the Constitution is akin to the doctor who skipped base courses such as anatomy, physiology, microbiology, and biochemistry to concentrate instead only on pathology because there are so many diseases to treat.

Though studying court cases by students seeking to become attorneys is obviously important at some point (like pathology for the student doctor), one must first well know the normal before one can fully appreciate the abnormal.

By concentrating only on pathology or only on court cases, one obtains an improperly-skewed understanding of "normal", such that, over time, far too much ill health or improper action is conceded, simply because it is so common.

Moving court cases front and center to be of paramount concern equates in principle with a second-rate woodworker who measures with his precision ruler a length of wood to be cut and after cutting his first stick to length, then imprudently sets aside this fine rule to gather dust.

To cut then the next stick to the same length, the imprecise woodworker takes that first stick he previously cut to now measure the second which he later cuts. To cut the third stick, he uses the second stick to mark its length.

After always using the last stick cut as the new measure, over many years, decades and even centuries, it is no small wonder that the latest sticks bear almost no relation to the original precise rule.

Anytime "standards" are set aside, inconsistency is inevitable and change will necessarily occur over time.

Had the original rule always been the standard for the measure of sticks, all sticks whenever made would have bore extremely close approximation to the original.

The same is with our Constitution. Article VI, Clause 2 of the Constitution makes the Constitution the “supreme Law of the Land”.

Our Constitution is our supreme Law and as such it must be used by Congress as the supreme yardstick under which they enact law (and by the courts to rule on cases and controversies brought before them), and not left to gather dust in some hidden corner of our neglected woodshop called life!

This author contends that far too many precedent-setting court opinions amount to mere fluff — legal filler without importance — to effectively transition us from limited to omnipotent government (which is why he hasn’t spent a great deal of time discussing them).

If the court opinion sounded good enough for the matter at hand (to create sufficient confusion to discourage notice of the actual legal sleight of hand) and no one properly learned to effectively challenge it, then it passed for the new temporary standard.

Legislative acts soon ventured into new territory never conceived by the whole of the Constitution, by simply measuring new law by the latest older law, and then being none too careful in the measure.

The end game is to get so far beyond the Constitution that things fail miserably, so that Americans everywhere simply become resigned to the “fact” that the Constitution, though it was once good for its time, had simply far outlived its useful, naïve life. The answer to be then given is that we now go on down the road to our new socialist-fascist nirvana without it.

It is high time we again learn the use of standards, by which all things must be measured to ensure consistency over time.

Another factor facing attorneys is the same presented with all schooling, that teaching students in a school or university setting provides teachers, administration officials and examination boards with an excellent opportunity to “mold” their students to their “correct” way of thinking.

Schools typically excel at ensuring uniformity and stamping out students who tend to think like their teachers, who are paid to teach students to be able to pass classes of given subject matter from a known viewpoint, so the student may graduate.

In law and other professional settings, schools also aim for their students to pass licensing examinations so the graduate may then pay annual licensing fees to join trade unions which prohibit all others from engaging in the same business who haven’t undergone similar indoctrination rituals (all in the name of “protecting the public” from incompetence, of course).

Thankfully, some students yet come out of such “training” with at least a few independent thoughts intact.

Since this author’s degree had nothing to do with history, law, or political science, he was not lead down any particular path (in these fields, anyway) and was thus free to here question everything.

Likewise, persons reading ***Monetary Laws*** should also question everything this author quotes, claims or concludes and, using their own independent judgment, compare it with their prior understanding on the topic and see where the new information leads them.

Like the proverbial math student who, coming late into class, missed the teacher's explanation that the math equation on the blackboard was unsolvable, only for the student to work on the equation diligently and later in the semester solve it, this author didn't necessarily "know" such things about the Constitution as does any first-year law student and thus was able to question the unquestionable.

When nothing is taken for granted, one is free to come to a different conclusions than what all the professionals "know", whenever the evidence supports such a position.

Thus, because of the evidence herein given, ***Monetary Laws*** concludes that our Constitution is yet alive and well, even though it suffers from neglect as we have piled upon it directive upon order upon rule upon regulation upon law.

Monetary Laws also concludes that the vast bulk of government operating under laws enacted since the Civil War and especially since the Great Deception which appear to violate the Constitution would violate it if they were actually meant to operate within the whole United States of America.

However, since these over-bearing laws only legally operate within exclusive legislative jurisdiction areas, they do not actually violate the Constitution (and thus they are not held unconstitutional by the courts, because there is at least one instance where the laws are constitutional [Americans then jumping to the incorrect conclusions that the laws are everywhere applicable]).

This author therefore comes to an opposite conclusion with the known professionals regarding limitations of government and that one must necessarily assume the status quo and fight the good fight but only upon the losing terms of one's opponents.

In the 1939 MGM movie classic *The Wizard of Oz*, the game was over for the cunning Wizard once Dorothy, the Scarecrow, the Tin Man, and the Cowardly Lion saw the man hiding behind the curtain and understood his ramifications.

Of course, the central characters didn't notice this mere mortal man who pulled the levers of an animated wizard until Toto smelled something amiss and yanked at the curtain to discover what was behind it.

This author has taken it as his job to follow the lead of the small dog with a little brain but who trusted his nose — that, after smelling things amiss, began investigating the matter and after discovering the fraud, worked to bring it to the attention of others by incessant barking.

In the movie, the game was over when the deception was first exposed, even though the rest of the people of Oz knew nothing was amiss.

The only reason this worked, however, was because the cameras were rolling to expose the wizard as but a con-man to others (the audience). Without broadcasting the information to others, Dorothy and crew could have been exterminated and no one would have been the wiser.

Disseminating the knowledge to a wide audience helps protect both the knowledge and the knowledgeable, while helping the con-men realize the game is over, forcing them to fold their hand (the purpose of releasing this book into the public domain and encouraging other authors to add their own name and title is to make it more difficult to censor, for if censoring were ever actually attempted, the information herein should always have the potential of popping up seemingly out of nowhere, even in different forms).

Of course, some men would sooner die than give up power, meaning that our own petty dictators may not voluntarily concede constitutional restrictions (even though they pledged their sworn oath to support the Constitution), especially if they think they can continue to get away with it.

2. ***If push comes to shove and mere exposure of the mechanism of deception doesn't do the job, what do we then do to reclaim individual liberty and limited government?***

In short, be patient and persistent. We reclaim our liberty and limited government one person at a time.

If information such as found in ***Monetary Laws*** proves insufficient to win back our freedom and limited government, widespread economic devastation brought about by expansive government will help end government attempting to do anything it wants to anyone at any time.

Change will then necessarily occur (though not necessarily for the better). At that time, at least, many people will be questioning what path to take. This is when we must be especially willing to present the information herein so the proper path has the best chance of being chosen.

Looking through well over a century of American history shows a wholly-insufficient political will to move toward limited government and individual liberty; sadly and tragically there has been a steady erosion of freedom at every turn as the march to tyranny has gained foothold with nearly every step.

Progression of omnipotent government seems inevitable with our current political system, that is, until the ground beneath it gives way in a spectacular downfall of economic devastation.

Just as the house rules in a casino favor the house over time, so too do the current rules under which we have been playing favor those in power with gaining more. However, with that power, and the more they seek to do, the quicker they will run out of money to feed the voracious beast.

The Soviet Union, though they were our allies in World War II, were our mortal enemies during the whole of the Cold War thereafter. Early on, Soviet Premier Vladimir Lenin laughed at western culture and said capitalists would sell the rope that would hang them; communism proved as economically bankrupt as it was morally and its practitioners couldn't ever afford to buy that rope.

The Soviets seemed invincible for decades, perhaps strongest right before they collapsed.

It is pertinent to note that after the Soviet Union collapsed, those officials exercising such extreme amounts of power for so very long for the most part walked away.

That a totalitarian foe simply walked away when their own house imploded provides us with hope that our own authoritarians will also fold their hand when evidence too compelling to ignore is squarely laid before the American public (or failing that, when they too run out of sufficient funds).

When tyranny-induced poverty collapsed the Soviet Union, nothing was left in its place except chaos and uncertainty. As a vacuum cannot exist on earth naturally, competing thugs struggled to gain a foothold and the republics split into splinter groups.

However, in the United States, our history and our culture have for well over two hundred years supported the rule of law, limited government and individual freedom. When absolute government collapses here, we will appropriately fall back on that history, law and culture.

That our government gained so much power in our Great Depression by New Deal legislation would seem to run counter to the Soviet's late-twentieth century experience, that our leaders will better use a crisis to gain power.

In economic decline, after all, certainly there are stronger calls from the public for government to do something to save them. Again, when the public calls out for help is our precise window of opportunity for providing them with the information of ***Monetary Laws***, when they are most receptive to learn what is wrong in our country.

When the United States went through our economic implosion in the 1930's, recall our government shared in the windfall from all our confiscated gold. While Americans then found themselves without any money, the government and its Federal Reserve cohorts had it all.

In periods of economic downfall, liquidity is king, and those with it can purchase what they desire, even for pennies on the dollar. Thus, when many Americans were forced to sell their assets for a song after paper-money lending dried up, those with real money simultaneously gained stronger economic footing.

Even as everyday Americans were undergoing financial implosion, our government and its supporters were able to purchase what they wanted with the gold which was confiscated to buy the votes they needed to do as they pleased, giving government unprecedented power to change the very course of American history.

In 2012, however, our government has become so indebted that its financial position is wholly different from 1933. While one should expect tactics not altogether unfamiliar from the past at the coming implosion, such events will prove less profitable for government (as there is simply too much private debt owed at compound interest associated with those private assets which may be now confiscated).

When our federal government runs out of money and the lending tree dries up, government-as-usual is over. A broke government can no longer dictate the course, as the Soviets well-proved.

That the federal government may always "print money" ignores that it takes on more debt in the process (increasing the problem as the can is simply kicked further down the road).

Our government, after all, now simply acts as a non-profit printer for the Federal Reserve banks who pay for only the printing and overhead costs of those notes issued of any denomination.

It is the Federal Reserve banks who profit from the “seignorage” associated with the printing of notes (of face value greater than inherent value) and banking debits and credits, and thus our government is not really able to print its way out of debt (without incurring more of it) under our current system.

Neither is it proper for government merely to eliminate the Federal Reserve so that it may then print its own currency and keep the profits for itself (though it would make more sense than giving this power over to a private entity). The real problem is with printing monetary claims greater than there is actual gold and silver money, not arguing who is able to reap the unjust rewards (it is the rewards which are improper, the problem is not merely to whom the profits should go).

At some point, however, more printed money will simply implode the system, no matter who has been obtaining the benefit (think of 2008 Zimbabwe one hundred trillion dollar bank notes).

As late as we are in exposing the deceptive means to a tragic end, we are now in a high-wire balance act without a safety net, and the stakes are getting very high indeed. Thus, it is to our decided advantage to pull back the curtain now.

By exposing now the method by which those persons exercising an inappropriate extent of power act beyond their true authority, the more reasonable of them will likely start to question their own misuse of power.

When these individuals find sufficient evidence to convince themselves (and they will, if they are sincere), a number of them will likely step into the defining light of truth and begin properly honoring their oaths to support the Constitution.

As time passes, if the pressure can be maintained and even increased, undoubtedly those straddling the fence will be forced to jump off on one side or the other, even career politicians. Thus is the incentive for us to bring as much attention to this matter as possible, to induce those yet on the fence to jump to the correct side as soon as possible.

Let’s say that those in power still simply refuse to give up illegitimate power, what do we do then?

This author does not recommend in any way, shape or form, to initiate violence. Even though Thomas Jefferson stated that the tree of liberty should be refreshed from time to time by the blood of patriots and tyrants, we should not charge at another figurative or literal Fort Sumter.

Our government is simply too powerful militarily to attempt to overpower it by brute force.

Congress is provided explicit authority to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions by Article I, Section 8, Clause 15 of the Constitution.

We advocates of the Constitution should <u>never</u> concede our rightful place as the true supporters of the Constitution by initiating insurrection or seeking violent suppression of the laws of the Union. We want to *enforce* the Constitution, not further undermine it. We should thus err on the side of caution to make sure we don't weaken the Constitution further.

It is the federal government which has subverted nearly every founding principle of American government; we must therefore not allow it the high ground in our fight for individual liberty and limited government under the Constitution.

It is of vital importance to understand that our government's impressive power is dependent but upon the individual action of many people working together.

Therein lays our key. We simply show one person at a time, if necessary, the method by which government has extended its operations beyond normal constitutional parameters.

There are many sincere Americans working yet in government who have sworn an oath to uphold the Constitution and who have every intention of upholding that oath, even if they have no idea how the Constitution has been subverted.

One reason this author has no more guns (besides cost) even though he is a strong proponent of our Second Amendment is because law is on our side and he wishes to make a statement that the use of guns now against our government would backfire on us and into our opponent's hands in a dreadful manner. We *must* be smarter than that.

The horrible thing about a plan to start shooting is that the people in government are not necessarily the problem; it is the system which allows even honest people to be used in wholly inappropriate fashion.

These people do not need to be shot; they simply need to be taught!

Most Americans likely know many fine people who work in government; unfortunately, given the current corruption of our republican form of government, the very integrity of these true Americans brings an inappropriate measure of honesty to a dishonest side-tracking of proper American government.

Many of these fine government employees will nevertheless have the chance to be liberty's fiercest allies, as those with the most integrity may well feel compelled to atone for the sins committed on their watch (think of Saul of Tarsus heavily persecuting the earliest Christians, who, after conversion to Christianity [becoming the apostle Paul], was one of its ablest proponents).

The South, when they fired on Fort Sumter on April 12, 1861 starting the Civil War, fired on land within the exclusive legislative jurisdiction of the United States (*remember "<u>forts</u>, magazines, arsenals, dock-yards, and other needful buildings" of Article I, Section 8, Clause 17?*).

This federal enclave of the United States in the South not only belonged to the United States as their property, but they (now only the North) also governed it exclusively. Thus, even though the surrounding region was southern territory by the actions of succession (at least in the eyes of the South), Fort Sumter certainly was not.

See: American State Papers, Military Affairs, Vol. 5, Twenty-third Congress, Second Session, No. 591, *The Construction of Fort Sumter, Charleston Harbor, South Carolina*. Page 463.

See also: James B. McCrellis, *Military Reservations, National Military Parks, and National Cemeteries. Title and Jurisdiction.* Washington: Government Printing Office, 1898. Pages 214 - 215.

See also: *Jurisdiction over Federal Areas within the States,* Washington: Government Printing Office, 1956. Appendix B, Pages 196 – 199.

The North defended their property from the initiation of violence by a now-foreign foe who had foolishly removed themselves from the protection of the Constitution. If the South had any intention of enforcing the (principles of the) Constitution, they greatly erred in their approach.

The degree of violence initiated by the South, as extensive as it was (as percentage of population fighting, cost, number of lives lost, or any other measurable parameter), yet proved wholly insufficient to meet their stated or intended objectives.

That such an impressively strong and concerted effort not only ultimately failed but actually helped bring about the greatest transformation of government away from the Constitution helps prove the futility of any lesser effort employing the same means — violence. If anything, the South merely played into the hands of those persons in the North who meant to convert our government to be a power unto itself at their beck and call.

While violence will not work well for us, knowledge and persistence will. We are on the proper side of law and it is the proponents of the ever-expanding government which are improperly exploiting a loophole in a way never intended.

Not only are these proponents of omnipotent government on the improper side of freedom, but they are on the wrong side of truth.

Being on the wrong side of truth is a terrible place to be; for the proponents of omnipotent government have gone over to the dark side, and are improperly taking our government along for the ride into that land of darkness. Government operating from such depths wholly distrusts its citizens; for it cannot give something it no longer possesses (trust).

While collective effort proves itself many times over in areas of action which can stand the defining light of truth, we should all be aware of spectacular downfalls of many candidates, office holders, or members of Congress who were brought down by the diligent efforts of just one or two persons seeking to make sense of things which didn't quite add up (who then showed others this information).

Making sense of contradictory evidence and false assumptions is sometimes all that is needed to right a wrong, especially in a government which has deceptively mushroomed far beyond its original and proper boundaries.

The wonderful thing about extreme government power in America is that it operates only within intended loopholes that have been improperly expanded far beyond their original

purposes, but that may be effectively re-restricted by exposing the work-around method for bypassing normal constitutional limitations.

Thus, one does <u>not</u> need to re-establish a new majority to regain limited government, for it never left us (we left it).

There is not a lot of need to pass much new legislation, nor is there much need to elect only the "right" person to this legislative seat or that government office. These measures, all tried before, have obviously not worked for us. It is utter foolishness to keep trying the same measures but expecting different results.

Every person exercising government power under the Constitution must follow its commands and they are powerless to expand beyond them except by our ignorance of their deceptive practices. It is up to us to make sure they follow their sworn oaths.

Our forefathers did not set up a system of government which holds us hostage at every election cycle or legislative session! We did not throw off one tyrant simply to accept another!

If ***Monetary Laws*** doesn't hit the nail on the head, it is certainly at least a light at the end of the long tunnel and the rescue from tyranny is now inevitable, if we can just be persistent in bringing sufficient knowledge of the bypass mechanism to others until it reaches critical mass.

Knowledge of the method government has expanded beyond the normal limitations of the Constitution is better than any sniper bullet, any cannon ball, for it is a game-changer for government operating within a loophole in a way never intended.

The loss of credibility is bad enough, but to know how government has operated on the sly to transform its powers is the key to stopping those inappropriate powers.

Just as learning how a robber has been stealing one's grain from the silo can stop him, so too does learning how government acts beyond its normal limitations inevitably stop them. It is but a mere matter of time before some person takes the new knowledge and converts it successful limiting of government in a case-by-case basis.

Over time, as hundreds, thousands, even hundreds of thousands of liberty-minded individuals begin chipping away at key areas of the foundation of intolerable government and inevitably the cornerstone of oppressive government falls of its own weight.

Our fight to regain limited government and individual liberty is merely the fight to expose the manner of deception which has allowed the government to operate independently of the Constitution. In this battle, the computer is mightier than the assault rifle, the internet better than any tank.

Our government is operating in deception and lies; we win back our freedom by pulling back the curtain to expose the government's improper actions.

Our cure is simply therefore one of education. The wonderful thing is that education may take place one person at a time and is therefore within the reach of each of us to effectually make a difference.

We needn't work toward election majorities, only to lose at the polls by a few margin points and then have to start over afresh and "do a better job next time around" to try and reform those persons getting a share in the booty.

We first preach to the choir so that we may gain widespread understanding, thereby recruiting many people to aid our efforts and we build success upon success.

We needn't pass new laws to support limited government, we already have it. We simply need to expose the work-around method used by inferior laws to bypass such limitations of the supreme Law.

Every person who understands how government has circumvented the Constitution may become a powerful advocate for liberty and limited government and may help bring many other people to similar knowledge.

This method of teaching the victims who are robbed of their productive efforts the manner in which the robbers have stolen their freedom is much more effective than trying to reform the robber-victors at every election cycle to try and get them to see the errors of their ways!

The only effective way to stop the most-committed of victors is to make their efforts futile because their former victims understand how they were being victimized and therefore learn to better protect themselves. When persistent thieves are unable to find ignorant and therefore easy victims, they will be forced to find other courses of employment.

We needn't first worry about who are the individual robbers (for if they leave, others will simply take their place), we need to concentrate on learning how they have successfully raided the hen-house. Once we properly expose that method, no one may again use it. It is more important to close down the method once and for all, than merely concentrate upon punishing the individual abusers.

As news budgets have been slashed throughout the country and beyond due to ever-narrowing or non-existent profit margins, government officials working beyond their rightful powers have probably breathed collective sighs of relief, figuring their secrets are now much safer with fewer investigative reporters probing and sniffing about.

However, they were probably safer when the nature which supported them (centralization of power) actually supported also their nominal opposition (newspapers and other mainstream media) who stood to gain upon the same grounds (centralization of information), as the latter may not have always had liberty and justice at heart, but rather continuing profits.

Though much has been written of terrifying technology which seems destined to extinguish every concept of privacy as we have known it, the truth of the matter is that technology has decentralized control of communication so effectively that those with this power previously have now lost their once-dominate monopoly positions.

Today, precisely because of technology and the internet, a penniless truck driver with numerous business failures under his belt (but who otherwise has a burning desire for liberty and justice in his heart and a stubborn determination to aid it to the extent of his limited means and

ability) has the potential to help expose government operating in excess of normal constitutional limitations which would have been improbable just a few short years ago.

Precisely because technology now offers a viable alternative, existing media desiring to avoid obsolescence may well pick up and run with such a story which perhaps would have been avoided decades ago.

Technology offers illegitimate government no safe haven, no more hiding places from the purifying light of truth. Decentralization of communication allows everyone and anyone to now have a voice unparalleled in history. In the exchange of ideas, the internet is an empty slate waiting to be filled.

Since there is now so much information available, this is again where the individual reader becomes important, as now you are your own publisher, deciding what information to pass along to others.

If you found the information in ***Monetary Laws*** helpful, please pass it along to all those within your circle of influence so they may also be exposed to it. If it is within your ability to improve upon on it, please do so, as our liberty is at stake.

Your credibility with others will undoubtedly influence at least a few others to read ***Monetary Laws*** which may not otherwise have that opportunity without your explicit referral.

Please do not underestimate how much your efforts to get out this vital information could make a significant difference with reclaiming our liberty.

As this author has neither the funds nor ability to effectively market ***Monetary Laws*** (and he is unwilling to transfer an exclusive copyright of it to others who have that capability), in large part it lays in the hands of its readers to do so, if there is to be any hope that it will have any effect whatsoever in reclaiming individual liberty and limited government.

Even if you feel that ***Monetary Laws*** fell far short of its intended mark, if it could help inspire even one or two others who do their own investigation into such affairs such that they could come up with truly inspiring work, then this author will yet feel satisfied that he contributed that which he was capable toward helping restore the Great American Birthright, of Liberty and Justice for ALL!

The collapse of the Soviet Union, the fall of the Berlin Wall, and the recent end of 5,000-year government reign of Egypt seemed highly improbable events shortly and perhaps even immediately before their respective downfalls.

The end of American government operating far beyond normal constitutional restrictions could fall just as quickly (or perhaps even more quickly, since it operates illegitimately [not that the foreign governments above referenced exercised legitimate powers, but they operated within a power structure which authorized their oppressive activities]).

The wonderful thing about the cessation of improper American government action is that we'd basically end up back in 1850's America politically, but without slavery. Nine out of ten federal government employees would now be without a job, as their bureau, department or agency would no longer exist (or if the agencies continued, they would be just a small shell of their former selves, now just for federal areas).

As America surged forward without the shackles of tyranny, these laid-off employees would find ample opportunity for re-employment (only now on the productive side of the equation).

3. ***How do we dig ourselves out of the financial hole into which we have placed ourselves?***

This question is quite extensive and could easily take up several volumes itself; thus, to keep on scope, only the most cursory of answers will be here discussed only in the most general of terms.

As any person who has been through financial upheaval knows, going through a severe economic downturn means selling assets, restricting purchases and limiting all extraneous non-core activities in effort to save critical operations.

The deeply over-indebted federal government long operating far beyond its rightful authority must now do the same.

The federal government must pare down all activities for federal enclaves to extend no further than to such exclusive legislative jurisdiction lands.

This means that the many agencies, government corporations and independent establishments which have authority only to operate in these areas would only need a mere fraction of the former capacity to properly service such areas (given they are so small). Thus, if the limited-purpose agencies didn't altogether close and cease operations, they would be a mere shell of their former selves, perhaps between one and ten percent.

Eliminating some 90 - 100% of entire agencies would drastically curtail ongoing government costs, as manpower consists of a huge portion of the federal budget.

Social Security and other federal entitlements have proven themselves to be sacred cows, off-limits to discussion and the death-knell of any politician who dares discuss even restricting payments (let alone eliminating them).

Such entitlement programs must inevitably come under the microscope. To keep them off the table of discussion as a matter of principle is akin to saying that those receiving the payments necessarily have a just claim on the output of others; that they are entitled to receive while others are required to pay.

Many of these same people undoubtedly look with derision upon our founding fathers who owned slaves, while recipients of entitlements today simultaneously expect their own slaves to keep providing for them (through oversight of their government task-masters, of course).

We did not throw off the private masters only to accept the state in their places, who decided to share their bounty with a few of their friends in order to keep themselves in power!

The robbing of the Peter's of this country to pay the Paul's of the world must stop now. Only that truly for the "general Welfare" is allowed — that is, for all persons equally. Social

Security is simply a tax in addition to others; there is no trust fund and payments made into went into the general fund and were long ago spent.

Inequality of persons before the law is improper, the Thirteenth Amendment having eliminated involuntary servitude (except in punishment of crime whereof the party was duly convicted). One individual cannot be forced to work for the benefit of another.

Do the United States have some obligation to those drawing on Social Security?

The States united under the Constitution have no such obligation, other than that morally and legally imposed upon them for failing to exert their proper influence to maintain proper constitutional parameters. By failing to correct this mess, the States allowed it to continue and grow, just so they could have a share in the spoils. Just as investors have a stake in paying losses out of their investments (if not all their assets), the States are not without liability in straightening things back out, and of providing some transition help, if necessary (State governments, of course, having a far greater scope of powers than the federal government).

Another huge expense is government action outside the true parameters of the "common defence". The Constitution, of course, does not declare in its recital of the purposes of government, of working towards the "uncommon offense".

Government is to protect the interests of Americans which are common to all. If we want to protect all other countries' interests at only our expense, that is a separate matter for separate discussion and it must be specifically authorized.

Will restrictions such as those highlighted above pay off our debts? Undoubtedly, at least if we continued all current streams of revenue.

Should we continue all current streams of revenue?

No, income taxes should be abolished, the Internal Revenue Code repealed and the IRS eliminated.

This book, however, is not about necessary tax reform, so to keep on point, this author will just leave it at that for now, that income taxes should be eliminated with proper restriction of the government activity. Our federal government met its proper obligations quite well prior to the imposition of income taxes in 1913 and we will prosper without them (as long as the government maintains its proper limitations).

Without income taxes, can we pay all existing debts?

Before answering that, we should at least look briefly into the existing debts, to determine if they are actually "ours" and whether they are legitimate.

Understand that the 14^{th} Amendment prohibits (in Section 4) questioning the validity of the public debt "authorized by law". Of course, the key here is to understand under what "law" was that public debt issued. It is proper that debt issued under the District of Columbia jurisdiction be paid from those assets (lands, taxes imposed on those lands, banking profits from banks chartered within that authority, etc.).

Additionally, the government's debt is owed to many private individuals, entities, and sovereign foreign countries, large multi-national investment and financial firms, and, of course, the Federal Reserve banks.

While this author has no unique knowledge that creditors besides the Federal Reserve system banks were provided wholly-inappropriate advantage, the Federal Reserve certainly was (even if small member banks did not likewise gain great advantage).

Though it is now much too late to punish the individual shareholders and officers of the Federal Reserve who were complicit in the 1933 and 1934 gold confiscation actions (since they are long dead), it is certainly possible for us to abolish the Federal Reserve system which provided the means for this theft.

This author argues that some portion of our debt owed and payable to the Federal Reserve is illicit gains from improper activity. What portion that is this author cannot easily know, but it is undoubtedly extensive.

As with any ill-gotten gains from criminal activity, those involved with such nefarious activities of the Great Deception must not be rewarded with keeping such ill-gotten gains. Neither should their heirs or assigns be allowed to compound those "earnings" which were far beyond inappropriate.

An extensive examination in court is proper, to determine if some suitable punishment may yet be allowed and whether the debt is valid for the United States of America.

Again, even if punishment is no longer equitably possible, one may at least remove the tool which allowed it, and abolish the Federal Reserve system which took such undue advantage such that it helped undermine every founding principle of our country.

Undoubtedly, there would remain a fairly extensive amount of outstanding debt after taking into consideration all the above-mentioned factors.

Public Lands

One method to pay off at least a portion of the remaining debt is putting again on the auction block the federal public lands which have always been held in trust for eventual sale, but were inappropriately removed from that table.

The author's earlier divergence onto territories was in large part to help remove the possible objection of this matter to people who otherwise support the Constitution.

There are nearly 600 million acres of public lands yet in the United States, but the 12 States with the highest acreages contain 90% of them, which improperly causes them to be but second-class States.

The public lands should be sold as a matter of principle, so the public land States may exercise the degree of sovereignty as enjoyed by other States.

Though existing private landowners may object to bringing onto the market seemingly historically-unprecedented quantities of properties (causing their own property's value to plummet), we should not look at the equation only from the side of what amounts to the producer's.

Many persons who promote free trade understand that even though trade restrictions and subsidy may look beneficial from the perspective of existing businesses, they realize that such improper actions are ultimately enforced only at the expense of the consumer and that such actions are ultimately detrimental.

The same concerns present themselves regarding home ownership, even if far greater percentages of the population own homes rather than own businesses.

Viewing matters from the side of consumption brings clarity to underlying principles; supporting the American dream of home ownership is proper (rather than supporting the system which but perpetuates paying for them [mortgages]).

Those who prefer the existing system because they have been paying a mortgage for 10 or 20 years and do not want to lose their equity ignore the fact that under an honest alternative system, they'd likely pay off any mortgage they would ever have in a few relative years, while when they went to sell, they'd have ample qualified buyers who could buy promptly without difficulty qualifying for a loan.

Article I, Section 8, Clause 17 Properties

As it is proper to punish the Federal Reserve for its underhandedness in the Great Deception, so too is it proper to punish the federal government for its role not only in that escapade, but especially for all other actions which literally transformed our government for absolute power and control.

As such, it is even proper to examine whether we should also here eliminate the source of that power — Article I, Section 8, Clause 17 of the Constitution — which allows the government exclusive legislative jurisdiction (and by sale of these properties, to aid in paying off creditors).

Another matter influencing the creation of a federal city not under the jurisdiction of any States (besides the early Congress being driven from Philadelphia by British soldiers) occurred in June of 1783.

After a four-day standoff with mutinous American soldiers from Lancaster who were looking "to obtain a settlement of accounts" (receive their pay they were due but were not being paid), Congress removed themselves from the city after the requested aid from the State to disburse the unruly soldiers was not forthcoming.

Volume 5, Elliott's Debates, Page 92

Even though no violence was ever committed, the "insult to Congress", which General Washington later writes from the "infamous and outrageous Mutiny" had lasting effect on the government psyche.

Volume 27, *Writings of Washington* (George Washington Bicentennial Commission, Government Printing Office, 1938), Page 32. Quoted in *Jurisdiction over Federal Areas within the States*, Part II, Page 17. Government Printing Office, June 1957.

Article I, Section 8, Clause 17 was the end result, allowing Congress to provide for their own security (also isolating the federal government from improper State influence).

At the Virginia ratifying convention on June 14, 1788, George Mason, with unparalleled foresight, "thought that there were few clauses in the Constitution so dangerous as that which gave Congress exclusive power of legislation within ten miles square".

Volume 3, Elliott's Debates, Page 431

Mason further warned that this clause gave Congress "an unlimited authority, in every possible case, within that district" but also that this "ten miles square…may set at defiance the laws of the surrounding states, and may…become the sanctuary of the blackest crimes". *Ibid*.

James Madison answered George Mason's objections, stating:

> "I cannot comprehend that the power of legislating over a small district, which cannot exceed ten miles square, and may not be more than one mile, will involve the dangers he apprehends…We make suppositions, and afterwards deduce conclusions from them, as if they were established axioms".

Ibid., Page 432

Even George Mason probably did not imagine the actual degree of devastation which would be caused from this otherwise unassuming clause.

Remarks similar of Madison were noted him as being made by Henry "Light-Horse Harry" Lee also at the Virginia convention:

> "Mr. Lee strongly expatiated on the impossibility of securing any human institution from possible abuse. He thought the powers conceded in the paper on the table not so liable to be abused as the powers of the state governments. Gentlemen had suggested that the seat of government would become a sanctuary for state villains, and that, in a short time, ten miles square would subjugate a country of eight hundred miles square. This appeared to him a most improbable possibility; nay, he might call it impossibility. Were the place crowded with rogues, he asked if it would be an agreeable place of residence for the members of the general government, who were freely chosen by the people and the state governments. Would the people be so lost to honor and virtue as to select men who would willingly associate with the most abandoned characters?"

Volume 3, Elliott's Debates, Page 435 - 436

Though neither could Mr. Lee fathom the ten miles square property being able to subjugate a country then of only eight hundred miles square (calling it an impossibility), ***Monetary Laws*** shows that this small area filled with scoundrels has subjugated a country now much larger, evidently because those "lost to honor and virtue" were allowed unfettered control.

Before concluding to eliminate the exclusive legislative jurisdiction to rid ourselves of the source of evil (and as well as provide a source of funds to pay the government's debts), it is appropriate to ask even whether such jurisdiction is yet necessary.

Is the federal government today faced with the same issues as in 1783 when approximately 80 mutinous soldiers induced the members of Congress to remove themselves from Philadelphia?

No. Though the federal government was then without much form or substance, today it is well-organized and controls the world's strongest military might. The federal government needn't look to any single State for its protection — it is quite capable of defending itself wherever it may be found.

Could Congress be yet forced from the government seat by foreign invasion?

Yes, it is possible sufficient military forces could gather against us and again force Congress to flee their seat of operations; however, should this unlikely event happen, whether Congress operated within their own jurisdiction or under that of a State would not be a determining factor in success or failure.

Is it appropriate that the seat of government operate within and under the jurisdiction of a single State?

No, this matter has not changed (or if it has, has only been made more inappropriate the larger and more extensive the operations of government).

However, wherever the federal government operates within States (even outside of exclusive legislative jurisdiction areas), it has historically operated well-insulated from effective curtailment by State action. As such, whether the seat of operations was within the jurisdiction of States, it would not be necessarily evident that operations would be in any way unduly limited or improperly influenced.

Jurisdiction over Federal Areas Within the States

In April of 1956, the *Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States* was submitted to the Attorney General and transmitted to the President (and printed by the Government Printing Office).

The explicit purpose of the committee was to investigate Article I, Section 8, Clause 17 lands and make a report on their findings. The committee had been formed and called upon to investigate the denial to a group of children of federal employees residing on the grounds of a Veteran's Administration hospital from attending local public schools (since the schoolchildren lived on exclusive legislative grounds of the U.S., they were not "within" the State, and thus the State had no obligation to provide education for non-residents).

For the first 50 years under our government, it had not been an established federal practice to seek exclusive legislative jurisdiction on its properties unless they were individually necessary.

From a joint resolution of September 11, 1841 (5 Stat. 468) it became the established policy not to expend any government funds for improving land and structures for government use for "armories, arsenals; forts, fortifications, navy yards, custom-houses, light-houses, or other public buildings of any kind whatever" until legislative jurisdiction was ceded by the State in which the lands were located.

This remained the policy for expenditure of federal funds for 100 years, to February 1, 1940 (54 Stat. 19), when the government backed off from its strict policy (due to local services [schooling, voting, police protection, court access, marriage and divorce, adoption, etc.] being denied federal employees living on exclusive legislative grounds).

The 1956 committee report highlighted the solicited opinion of the **Attorney General** of **Kentucky** regarding exclusive legislative lands in Kentucky:

> "In commenting generally, we feel that the existence of any Federal enclaves in this State has probably been conducive to embarrassment to both the Federal and the State authorities. We have noted in our dealings with the Atomic Energy Commission at Paducah, whose installation there is partially with a Federal enclave and partially without, that this most secret of all Federal activities can be carried on most successfully within the State jurisdiction, and the Atomic Energy Commission officials with whom we have dealt have so expressed themselves. The transfer of jurisdiction to the Federal Government is an anachronism which has survived from the early period of our history when Federal powers were so strictly limited that care had to be taken to protect the Federal Government from encroachment by officials of the all-powerful States. Needless to say, this condition is now exactly reversed. If there is any activity which the Federal Government cannot undertake on its own property without the cession of jurisdiction, we are unaware of it.
>
> "It is our hope that your Committee will be able to recommend a retrocession to Kentucky of all of the Federal enclaves in this State, so that our local governments, our law courts, our administrative agencies and our Federal officials themselves may cease to be vexed with this annoying and useless anachronism."
>
> *Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States*, April, 1956. Part I, Page 24.

Given that a State official in his official capacity referred to the exclusive legislative jurisdiction as an "embarrassment" and an "annoying and useless anachronism", it is important to see what the report writers concluded, and also what the various federal departments themselves thought on the subject.

The report first admits that:

> "the great bulk of land owned by the United States, including substantially all lands of the so-called public domain, the Federal Government holds only a proprietorial interest, possessing with respect to such land no measure of legislative jurisdiction within the meaning of article I, section 8, clause 17, of the Constitution…When the United States acquires lands without acquiring over such lands legislative jurisdiction from the State in which they are located, in many respects the United States holds the lands as any other landowner in the State."
>
> *Ibid*., Part I, Pages 64 - 65

Chapter VIII of the report provided the committee's "Conclusions and Recommendations".

The report concluded that time and the "tremendous expansion of Federal functions and activities" have "drastically altered conditions affecting the desirability of Federal exercise of exclusive legislative jurisdiction over federally owned areas". *Ibid*., Part I, Page 69

The committee stated that "the most immediate need, in the view of the Committee, is to make provision for the retrocession of unnecessary jurisdiction to the States", that the best expedient was to "give to the heads of Federal agencies and their designees the necessary authority to retrocede legislative jurisdiction to the States." *Ibid*., Part I, Pages 71 - 72

Regarding security, the committee noted that:

> "The power to make and enforce the necessary rules and regulations for the management of Federal property does not depend, constitutionally, on the acquisition by the Federal Government of legislative jurisdiction".
>
> *Ibid*., Part I, Page 74

In Appendix A (of Part I), the committee reported a "Summary of Federal Landholding Agencies' Data Related to Jurisdiction"; i.e., reported comments from the federal government agencies themselves.

The Department of the Treasury reported on 1,219 installations with 26,941.45 acres and 674,266 square feet of office that were under its command (largely the Coast Guard [1,049 installations on 25,473 acres and 144 lifeboat stations on 977 acres], Customs [20 installations on 366.6 acres with 43,444 square feet of office] and the Mint [6 installations with 124.85 acres and 630,822 square feet of office]).

The committee reported that "all Treasury agencies owning property consider a proprietorial-interest-only status satisfactory for their properties". *Ibid*., Part I, Page 84

Under the Department of Defense, the committee reported that only 41% by number and 20% by acreage of the Army's properties in held in exclusive legislative jurisdiction status. In other words, the considerable quantity of Army lands are held under proprietorial interest, little different than any other landowner.

The report concludes that:

> "The Department of the Army indicates the desirability of providing authority to the Secretary of the Army for the adjustment of the existing jurisdictional status of Army properties, but opposes any action on the basis of the instant study which would divest the United States of any jurisdiction over military properties which it now has."
>
> *Ibid*., Part I, Page 89

While the Army preferred to leave the matter of jurisdiction untouched, other military branches did not necessarily conclude the same. Under the Department of the Navy, the report indicated that 266 (out of 743) installations on 1,085,698 (out of 3,100,095) acres were held by the Navy in exclusive legislative jurisdiction.

> *Ibid*.

The committee reports:

> "In view of the opinion of the Department of the Navy that the jurisdictional status of the site of an installation is immaterial insofar as any effect it may have upon the security and military control over the property and personnel of a command are concerned, it bases its view of the desirability of a

particular type of jurisdiction in a general way upon the the (sic) size and self-sufficiency of the installation. For large, self-sufficient bases exclusive (or partial approaching exclusive) jurisdiction is felt desirable."

Ibid., Part I, Page 89

Further, the report stated that the Department of the Navy, relying on an opinion of the Judge Advocate General of the Navy, "reports that it is its view that there is no connection between security of a base and the jurisdictional status of its site". *Ibid*., Part I, Page 47

The Air Force had 189 primary installations on 6,327,498 acres, of which over 90% (5,744,485 acres) were held only under a proprietorial interest. *Ibid*., Part I, Page 94

Under the Department of Justice, the Immigration and Naturalization Service stated that "all its needs have been met under a proprietorial interest", but the Bureau of Prisons "feels, however, that concurrent jurisdiction would be most suitable for all prison sites". *Ibid*., Part I, Pages 97 and 98

The Department of the Interior (which monitors the public domain) had the policy "to acquire its lands under a proprietorial interest only wherever possible, and not to accept legislative jurisdiction". *Ibid*., Part I, Page 100

The Department of Agriculture "is of the view that a proprietorial interest is sufficient to its needs as to all of its properties". *Ibid*., Part I, Page 103

The Department of Commerce "apparently has no departmental policy with respect to the acquisition of legislative jurisdiction. However, all of the landholding agencies of the Department have a policy of accepting only a proprietorial interest in lands acquired for their several purposes". *Ibid*., Part I, Page 105

The Department of Health, Education and Welfare "has come to the view that a proprietorial interest is most desirable for the large bulk of its properties". *Ibid*., Part I, Page 107

The report indicated:

"The policy of the Atomic Energy Commission has been to acquire no legislative jurisdiction…The Atomic Energy Commission has found that a proprietorial interest only is entirely satisfactory for all categories of property operated by that agency".

Ibid., Part I, Page 108

Also:

"The policy of the Central Intelligence Agency with respect to the acquisition of legislative jurisdiction has been to acquire no jurisdiction over any of its properties".

Ibid., Part I, Page 109

With regard to the Federal Communications Commission, its policy since 1940 "has been…not to obtain any measure of legislative jurisdiction over its land acquisitions". *Ibid*., Part I, Page 110

The General Services Administration, which then oversaw 3,904 individual properties (primarily post offices), a "much larger number of individual properties…than any other agency"

indicated that 92.6 percent of its properties (3,616) were held in the exclusive legislative jurisdiction status. The inclination of the administration was to preserve the status quo but later admitted that "a proprietorial interest only would be sufficient for its properties". *Ibid*., Part I, Pages 112 – 114

The Veterans' Administration had 176 installations (in all 48 States) with 43,874 acres, predominantly under exclusive legislative status. The consensus of the Veterans' Administration was to retain exclusive legislative jurisdiction "except as to some urban buildings". *Ibid*., Part I, Pages 117 - 120

The exercise of exclusive legislative jurisdiction within the States for forts, magazines, arsenals, dock-yards, and other needful buildings, is seen by various government officials *in their official capacities* as an "embarrassment", an "annoying and useless anachronism", that is "immaterial insofar as any effect it may have upon the security and military control over the property and personnel of a command are concerned", and that "there is no connection between security of a base and the jurisdictional status of its site".

That 90% of Air Force lands and 80% of Army properties by acreage (59% by number) are held outside of exclusive legislative jurisdiction helps prove that this extreme level of control to be without significant interest, certainly at least for the vast bulk of their activities.

The important thing to understand is that all of this discussion from the 1950's was without consideration of the material provided within ***Monetary Laws***. These reports were just commenting on the practical implications of the clause conferring this power.

A greater consideration is, however, so twisted have judicial decisions and legislative authority become for forts, magazines, arsenals, dock-yards, and other needful buildings, that:

> "truly exclusive federal jurisdiction, as it was known in the time of the basic decisions denying civil and political rights and privileges to residents of Federal enclaves, no longer exists except as to the District of Columbia".
>
> *Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States*, April, 1956. Part II, Page 244.

This is even though Article I, Section 8, Clause 17 states that Congress is to exercise "*like* authority" over these areas as was to be exercised "in all Cases whatsoever" for the seat of government — that of *exclusive* legislation.

Further, the report concluded that:

> "there would seem at present to be no area (except the District of Columbia) in which the jurisdiction of the Federal Government is truly exclusive".
>
> *Ibid*.

The legislative and judicial twisting toward a "concurrent jurisdiction" (of intermixing State and federal authority) has been because it has proved unworkable for the federal government to exercise exclusive legislation for small areas not well-populated, to provide the local legislation and necessary government services which are normally otherwise provided by State and local governments.

So, rather than properly divest the federal government of that unworkable exclusive legislation in the enclaves and let the States handle what governing they should do (and keep within the constitutional separation of powers), the exclusive legislation has been twisted into constitutionally-unsupported concurrent jurisdiction. Now, federal and State authorities inter-mix in a manner never intended, into a hodge-podge patchwork of convoluted laws which are different in nearly every area, while violating important constitutional principles.

Besides being unworkable on its own (at least outside the District of Columbia), however, considering the information provided in ***Monetary Laws***, the exclusive legislative jurisdiction power is not a mere "embarrassment" or "annoying and useless anachronism", but an extremely dangerous and highly efficient tool to effectively nullify the remainder of the Constitution, *the very purpose of which the Congress, the President and the Courts were first created to carry out*.

When the means employed to pursue appropriate ends for which the government was originally created is destroying those ends, new means must be found. When a very small and otherwise insignificant part of the whole threatens the health of the remainder, it is time to excise it once and for all.

The exclusive legislative jurisdiction of Congress can be thought of much like the human appendix, which, when it isn't a problem, may safely remain.

However, when the United States' appendix became inflamed during the Civil War, swelling as a voracious tumor after the Great Deception, is now in danger of bursting and sending its seeds of destruction to the whole, the very life of the host is now seriously threatened.

Selling government lands, even Article I, Section 8, Clause 17 properties, would help pay improperly-incurred government debt and would help save the body. It is proper that the lands of the jurisdiction which supplied the subversion of power be sold to pay the debts of the subversion.

Even if Article I, Section 8, Clause 17 properties are considered more important than the appendix, perhaps as one's feet or legs, one must understand in dire situations, such as to save the life of a diabetic, it is quite common even to amputate otherwise important but now infected body parts.

In instances where it may be inappropriate for private individuals to be landlords over these lands (for the government tenant, if they remain using the lands), selling the lands to the State governments where the lands are found would be appropriate (even if the States are not financially-able to pay much for them [perhaps the federal government could make the rental payments just before any mortgage payments were due, if money is borrowed by the States to purchase the federal lands]).

Thus, the federal government could still keep its proper use of the property (as necessary); it would simply no longer be the landowner (and would thus have to pay rent).

Those who argue that such a proposal would be foolhardy (giving up ownership to simply become a tenant) and too expensive (by necessitating perpetual rental payments for those properties kept in use) are overlooking the exponentially higher cost of having a clause which threatens the very life of the whole.

If there be any cases where this is critical, then even if the government keeps ownership of the land, it is still proper at this point to retrocede jurisdiction to the States.

To begin to have an understanding of the actual cost of Article I, Section 8, Clause 17, just think if the federal government operating in the 1850's had continued unto the present day (but without slavery), of how much different a position we would today find ourselves. That difference is the cost which Article I, Section 8, Clause 17 has cost us. This astronomical and incalculable cost is that which is foolhardy and far too expensive to maintain.

The Great American Dream, after all, is for the private citizens to own their own home as a small piece of heaven on earth, not our government! Government is the merely the means to ensure *our* dream, not replace it with subjugation and perpetual indebtedness.

While the 1956 *Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States* discussed Article I, Section 8, Clause 17 of the Constitution, it only looked at the "like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings" but not the seat of government for the United States.

It is important to consider this power for the seat of government before eliminating it.

Can the U.S. government operate without exclusive legislative jurisdiction at a government seat?

Yes. The clause, though certainly understandable when it was created, is hardly an absolute necessity for continued operation of the U.S. government.

Is it proper for the U.S. government to even concentrate the bulk of its activities in one geographical area? No.

Government tends to concentrate its activities in one spot for easier administration and control. This was certainly understandable when communication and travel were difficult. However, our position in these matters today is nothing like it was in 1787.

Moreover, the very concentration of government into an area no greater than ten miles square actually makes it far more vulnerable to attack (think of the Pacific Fleet as sitting ducks from an aggressive enemy attack on Pearl Harbor on December 7, 1941) or natural disaster.

Disbursing the administrative government departments which remained throughout the United States would protect the government not only from foreign aggression, not only from natural disasters which tend to only hit isolated geographic regions, *but also domestic intrigue*.

Popular sayings of public health and toxicology are pertinent to this matter. The first is that "the solution to pollution is dilution", while the second is "the dose makes the poison".

It is common to hear parties on all sides of any issue complain of special interests groups influencing government (so everyone ups the ante by bolstering their own interests). Just think how efficient it is for these special interests that we have concentrated our federal government activity to one ten miles-square area, thereby poisoning the waters with rogues as our government is further polluted.

However, if the federal government were scattered throughout the 50 States as it made sense, the solution to this pollution would be found in its dilution.

A poison is something harmful in sufficient concentration to cause ill effects. However, diluting that substance over a wide area makes it innocuous, without harm. Disbursing federal government activity would result in less outside political influence and less harm.

One of the facts listed in the Declaration of Independence of the king's insults was to call "together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole Purpose of fatiguing them into compliance with his measures".

Such a matter would again have less relevance today, but should nevertheless remain within our radar (so we shouldn't disburse government needlessly).

While neither House of Congress, during Session, shall (by Article I, Section 5, Clause 4) adjourn to any other place than that in which the two House shall be sitting (thus both the House of Representatives and the Senate must meet in Session in nearby facilities), this does not necessarily mean most of the other arms of the government must be located nearby.

This author recommends removal of this once-proper power for a government seat, because it has been wholly misused beyond all capacity for understanding.

This author must concede, however, that widespread understanding of how the government has misused this clause would not likely allow its continued exploitation (and thus repeal of Clause 17 is perhaps not absolutely mandatory, if the information on how it has been corruptly used becomes widely known).

This author is not necessarily arguing that Article I, Section 8, Clause 17 must necessarily infect the host, but for it to remain, full understanding of this clause must be widely understood to prevent it from choking out the life of the whole.

If we do not repeal Article I, Section 8, Clause 17 authority, how do we effectively limit federal government involvement for these areas beyond these limited geographical areas?

We limit exclusive jurisdiction authority of our federal government by enforcing the proper jurisdiction of the federal government.

Besides the outline found within the Constitution, the proper bounds of exclusive federal authority are found at Section 7 of Title 18 of the United States Code, herein below reprinted in full:

Title 18, United States Code, Section 7

TITLE 18 — CRIMES AND CRIMINAL PROCEDURE

Section 7. Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States," as used in this title, includes:

(l) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dock-yard, or other needful building.

4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space. Including the Moon and Other Celestial Bodies and the Convention on registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

The United States Code refers to the proper jurisdiction of the United States (by Article I, Section 8, Clauses 10 and 17) as the “special maritime and territorial jurisdiction of the United States”.

Outside of these geographically-limited, special areas, the United States must abide by the remainder of the Constitution (unless the government is successful in its deception).

Amendments

Within ***Monetary Laws***, this author has sought to diagnose the problem (by showing how the government operates beyond its normal constitutional limitations) and suggest the appropriate cure (increase widespread understanding of the bypass mechanism used to circumvent normal constitutional restrictions).

Some diseases, of course, are quite persistent and even creatively resistant.

Of course, not all Americans want limited government. Perhaps then at least a few of States would choose to continue on their present paths even if the federal government was no longer in a position to dictate it (they would simply proceed on their own).

These States would then enjoy the freedom to suffer the inevitable consequences of tyranny (when liberty is available elsewhere).

Freedom includes the freedom to be wrong and suffer the repercussions, as well as the freedom to be right and reap the rewards.

Those States which continued the present path toward tyranny would inevitably lose massive amounts of their greatest assets — their best and brightest people — *who would take their liquid assets and capital with them* (or would leave behind fixed assets, if necessary).

These wealth creators would vote with their feet as they moved to States which encouraged or at least allowed freedom.

Even if only a few States supported freedom and limited government, they would nevertheless prove irresistibly the concept, providing stark contrast between other States yet operating in darkness (with federal legislation no longer dictating uniform destruction, the States would be free to pursue freedom). Freedom should be America's greatest export, of providing the clear alternative to tyranny.

If our federal government was once again properly limited by the Constitution, it is likely that Congress would propose several amendments, finally requesting authority which they had been long illegitimately exercising.

This author thinks it unlikely that many amendments would be ratified, however (if for no other reason than to avoid rewarding past inappropriate behavior).

That amendments need ratification by three-fourths of the States provides us Americans with extremely strong protections against an expansive growth of government action.

The first clue of such protection is to realize that there have only been 27 Amendments ratified since adoption of the Constitution (with 11 of them proposed in 1789 in the Bill of Rights [the first 10, and the 27th Amendment]).

A look at a color map of the 2008 Presidential election by political party shows a great deal of red in the center of the country (which this author would cautiously argue is yet suggestive of underlying support for limited government), away from population centers. Many or even most of these States would undoubtedly choose freedom and limited government.

Another way to understand our protection from increasing government power by Amendment is to realize that under 2000 census numbers and apportionment, California had 55 electoral votes in the 2008 presidential election, outweighing a *combined* 14 other States and the

District of Columbia with the lowest number of electors (Nevada [5], New Mexico [5], New Hampshire [4], Idaho [4], Hawaii [4], Rhode Island [4], Maine [4], Vermont [3], North Dakota [3], District of Columbia [3], Alaska [3], Delaware [3], South Dakota [3], Montana [3], and Wyoming [3])

In electing a President, California alone had more clout than those 15 other jurisdictions.

Obviously, in electing the President, the smallest 14 States have little say in the matter, to such extent that they are all but irrelevant in the matter.

However, in ratification of a proposed Amendment, even the 14 States with the lowest population figures are able to prevent ratification of an Amendment even if California *and the remaining 35 other States all voted to ratify it* (as 37 out of 50 States are needed to satisfy the three-fourths requirement [see Article V of the Constitution])!

Even though large majorities of Americans (via the liberally-populated States) may perhaps support an Amendment to increase federal government authority, the most conservative minority may prevent its ratification (through actions of the conservative States).

That other States more populous may be more conservative than only those least-populated simply would increase the percentage of the population which opposed new grants of authority in the form of Amendments.

Looking at the presidential election process easily shows that although the electoral college may elect a liberal-minded President, it is much tougher indeed to pass a liberal-minded Amendment which sought to increase federal government power (which is why those desiring to use government for their own purposes seldom ever pursued this strategy).

What these facts really show is that we are much better protected against changes in power than who happens merely to control that power which has been properly established.

The primary point of this principle of Amendment is that it would be absurd to make such a high standard for changing the powers of government if those exercising its power may simply change it at will.

This provides compelling evidence that matters outside common understanding come into play — shame on us for not working more diligently all along to figure out this unavoidable conclusion.

If our Constitution's framers protected us so well against deliberate increases in government power, how much more would they protect us against illegitimate increases, of the President, Congress, or the Courts simply taking it upon themselves to do as they please?

As Article V of the Constitution plainly declares, after all, only the States may ratify Amendments (or attend conventions) and therefore only the States are empowered to change the powers of the federal government.

As wholly evident from Article V, the President, Congress, and/or the Courts — individually or combined — are incapable of changing their powers. *Why then, has everyone bought off on these changes?* Out of ignorance of the mechanisms they have used.

The illegitimate exercise of discretion outside of allowed parameters, after all, is but a polite term for tyranny.

Since the whole point of declaring our independence was to remove ourselves from despotism and institute free government based upon consent of the governed, *is it really likely that we threw off one tyrant only to accept another?*

Thus the absolute absurdity of those who propose that Congress, the President and his minions and the supreme and inferior Courts may change the Constitution as they have appeared to do since the Civil War era.

Those who claim federal government power has expanded as enacted by Congress, practiced by the President and condoned by the Courts since the Civil War and New Deal are merely deceiving us and/or kidding themselves. Only the States as the signatories to the Constitution may increase government power authorized to the United States.

All other changes short of Amendment are illegitimate and merely appear to change the power (including the power of the Congress to individually mandate Americans purchasing health insurance, even when the supreme Court holds that it is but a tax!).

All this illegitimate power may be excised simply by exposing the manner in which it operates, for it is all wholly improper.

The ratification requirements for Amendments to increase government power are well-protected except in cases where there is widespread agreement that the power sought is appropriate.

In detailing the red vs. blue States in a presidential election above, this author should acknowledge that the Republican vs. Democrat and conservative vs. liberal labels improperly keep us centered upon the wrong agenda.

These labels tend toward big government via guns and corporate welfare vs. big government via butter and private welfare, when the real difference should really be small government vs. big government.

By offering no real alternative, we keep marching down the road to tyranny…

After a period of great transformation in which our federal government only operated again according to its legitimate powers, the federal government would likely once again operate under truth and limited power rather than deception and lies. Although it would take a long time to regain the trust of the citizens, it is certainly possible once it starts behaving appropriately.

We have truth in lending laws, truth for advertising, truth for labeling; it is certainly well past time to have truth in government.

With a return of honest monetary principles, economic stability could return (although there would undoubtedly be an initial period of uncertainty in the interim). Americans would once again return to a nation of savers and investors, rather than debtors and speculators.

The wonderful thing about shearing government of inappropriate power, it is not likely to ever grow back, except by appropriate measures (by Amendment). There just are not that many loopholes in the Constitution for those who seek to exploit inappropriate power.

All the many pivotal court cases condoning such a transformation of government are merely as the animated wizard telling Dorothy and crew to "pay no attention to the man behind the curtain" and about only as significant.

Closing the exclusive legislative jurisdiction loophole of Congress effectively reclaims limited government in these United States of America. As explained above, the power won't simply be taken up by the States where the residual government power resides, simply because with fifty States, an insufficient number will not simply toe the current line (without improper federally-imposed uniformity).

When the federal government gets its power appropriately sheared such that it once again operates within its proper confines, undoubtedly there will be temporary uncertainty and even confusion. During this time, there will likely be great resistance by many otherwise liberty-minded people, who would rather deal with the devil they think they know than with uncertainty.

Many people with assets but who also have extensive debts may think they are better off with the current system (out of fear of losing their assets). They must realize, however, the present system is really only for perpetuating (and enlarging) debt, to keep people in continuous bondage.

Freedom with honest money and limited government will trump an unjust system every time, at least for all productive members of society.

Actually, the poor are also best elevated in a market-based, free society. The poor have the best chance to become the middle class (and even unto the propertied class) in freedom. The poor also will receive the highest voluntary charitable support of a growing and increasingly-wealthy middle class.

The middle class today are certainly struggling, if not dwindling, showing that central command and control societies typically devolve only to the ultra-rich and the mass of working poor.

That today it takes two breadwinners working to attempt to pay for what was spent yesterday on a small family is not simply a matter of living beyond one's means, though that may be a factor on occasion.

This assumption of living beyond one's means as the root cause of our financial turmoil completely ignores the extensive damage debt-based money creates, of robbing the productive capacity of the country.

Compound interest, monetary devaluation and its corollary rising prices destroy the incentive to save one's money and invest, as they steal the profits. Spending and even speculation are therefore encouraged (until the pendulum invariably swings back toward fiscal restraint and prices then fall).

Booms and busts allow massive changes in fortunes — the concentration of wealth into fewer and fewer hands — into those in the know against those not understanding.

We have the system we have today because it benefits some people. It matters not who these persons are (except for purposes of punishment), for there will always be unethical persons who will willingly step in to fill the void if some leave or are thrown out.

4. Should both silver and gold money struck and what should be our monetary unit?

This author has spent the whole book thus far discussing coined money without addressing the fact that no one today really wants (our existing copper, nickel and zinc) coins, as loose change piles up in the coin jar until it is exchanged again for currency.

If one had but four double eagles in one's pocket, however, this person and another could both enjoy a very nice week's vacation in most any exotic locale with just the gold bullion value of those four coins.

Coins of great value are wholly different than those of little. As a comparison, four coins of copper and nickel barely buy one candy bar, which hardly makes base metal coins equivalent with gold and therefore any comparison between the two are irrelevant.

That Americans have no experience of carrying around highly valuable gold coins in their pockets for purchasing extensive goods and services they desire does not mean that the experience of carrying around copper, nickel, and zinc coins provides them a sufficient taste to adequately understand or experience the difference.

Gold and silver are coined freedom and will always prove worthy of being held.

To this author, there seems to be two primary alternate paths to pursue, since bi-metallism has proven an utter failure (devolving into circulation of the least stable monetary metal).

Those two possible paths are a monetary standard of either gold coin or silver coin.

A few primary strengths and weaknesses should be examined under both proposed systems (this look is hardly meant to be an exhaustive inspection into the matter).

Alternative A: The Silver Standard

Under a silver coinage standard, we should once again strike all silver coins only of full and honest weight and proportional value. The silver dollar, half-dollar, quarter, dime and half-dime should be struck, while three-cent trime should also be considered (this author recommending the coinage of all [even if the latter two are exceedingly small]).

An alternative name for our silver dollars, to avoid confusion with Federal Reserve note dollars, would be to use the alternate name provided since 1792 — the "unit". Though the name "unit" is rather utilitarian, it is proper that we seek to eliminate confusion to the extent possible, especially over any transition period.

Under the silver standard, this author also strongly recommends coining gold coins, though without any fixed dollar value or any direct tie to silver. Under a silver coinage standard

with the silver dollar as the unit, any gold coins struck should not be tied in any direct way to "dollars", but valued only in "eagles".

The silver dollar of 412.5 grains of 900 fine silver should be re-instated as the unit of value (whether termed "dollar" or "unit"), with all proportionally-valued coins at proportional weight of equally-fine silver. If the "unit" term is not used, we should specify "silver dollar" to try and negate as much confusion as possible between it and the paper dollar.

The **advantages** of using silver as our standard of value are:

1. Silver coins are valued at rates most conducive to every-day purchases such as food, clothing, fuel, etc. (while gold coin is best-suited for large-ticket items);
2. Both silver and gold coins can be struck *and used*, taking advantages of having coins of both monetary metals in circulation;
3. The silver standard best conforms with our earliest coinage acts (which established the silver dollar as the unit coin and standard of value);
4. The silver standard offers greater stability of prices than does our current system of Federal Reserve notes (those who argue otherwise must consider that printing currency at unprecedented rates allows many of those printed notes to be used to manipulate prices of its key competitors to make them appear unstable]); and
5. The silver standard also (as gold) prevents "elasticity" of available money, minimizing manipulations in credit by government.

Disadvantages of using silver as our standard of value are:

1. Silver dollars have the same unit name as our paper dollars, leading to great confusion amongst untold numbers of people. Confused people are easily taken advantage of.
2. We will be choosing the least-stable of the two monetary metals as our (unchanging) standard of value;
3. Striking both gold and silver coins for circulation means that values for gold will fluctuate in terms of silver. Thus, mathematical calculation will be necessary to find the value of gold at the time it is spent (but with gold being used for higher-value transactions, this is precisely where more time calculating proper value could be justified); and
4. The U.S. Mint today has minted up to 20 billion base-metal coins annually now for 40+ years since silver was removed from coinage. Although copper and zinc *pennies* and nickel *five-cent pieces* are easily extinguishable from (silver) dimes and quarters, our current base-metal dimes and quarters (and half-dollars) bear far too much likeness to avoid exploitation of unaware persons if production of silver coins are resumed (unless they are struck in a readily-distinguishable shape different than that to which we are accustomed).

Alternative B: The Gold Standard

Under a gold coinage standard, gold coins should be struck of course only of full and honest weight and proportional value.

In choosing the gold standard, this author recommends against simultaneously striking silver coin (as much as it otherwise pains him, as he has long individually preferred silver [gold always being above his price range]).

The **advantages** of choosing gold as our standard of value are:

1. Gold has shown the greatest stability of the monetary metals, conforming with Alexander Hamilton's recommendation to use the most stable of the metals for a single-metal money of account; and
2. Gold was placed in the primary position of our monetary metals, at first partially in 1853, more significantly in 1873, and in 1900 became our standard unit of value. Continuing on again with gold reflects our most-recent monetary history.

Disadvantages of using gold as our standard of value are:

1. Due to gold's extreme value, circulation of coins would be impractical for all but for the largest of purchases normally made by consumers, *leaving us vulnerable to government manipulation of our monetary substitutes*; and
2. We would be giving up on silver as use of a monetary metal (it would likely be too cumbersome to convert every price valued in gold into silver (so numerous are the smaller transactions which would be in the price range of silver).

After this very brief examination into the advantages and disadvantages of choosing either monetary metal over the other, this author recommends a two-step proposal.

The first step of this recommendation is to be used for any interim period necessary before our government has again proven itself worthy of our trust.

So extensive has the federal government betrayed our trust that it must firmly prove itself resolute in re-establishing solid constitutional principles before we dare place ourselves again at its mercy.

The first step recommended by this author is re-establishment of the silver standard, coining silver coins of proportional weight and value as our unit of the silver dollar. Gold coins without direct tie to the dollar or silver would also appropriately be struck.

Though establishing the silver standard is picking the monetary metal proven less stable, its stability is far greater than our present system of Federal Reserve note dollars that a vast improvement cannot be tolerably used against this proposal, merely because the system most stable was not sought.

The reason again not to seek the most monetary-stable system is because it would impermissibly again position us in a weakened position of being individually able to defend ourselves against improper government action (and we would therefore actually be in a position of greater instability under the gold standard than as with the silver standard).

Coins of silver and gold, even if they prove to not be well-received by most Americans due to dislike of coin, yet provide every individual ample opportunity to protect their own store of wealth which redeemable paper certificates or plastic cards denominated in gold or silver cannot match.

As long as government cannot be fully trusted, we cannot afford to equate mere "claims to wealth" equivalent with wealth itself.

If or once government has again proven itself capable of holding the public trust, it would perhaps be appropriate to look to the second step, the institution of the gold standard.

The main drawback against gold coins — their high worth — is no longer a technical problem today, even as its value rises to new heights. Thus, the smallest gold coin struck in our history — the tiny dollar coin of 25.8 grains of gold 900 fine (23.22 grains fine) — though valued in bullion today at some eighty or so paper dollars, does not now present a barrier to using only gold as our only legal tender money.

Though there will always be hard-money advocates such as this author who prefer their money in actual coin form (at least during legally- and financially-uncertain times), the general population have for well over a century indicated their strong preference for paper notes (at least those holding their value) and recent generations have indicated their strong preference for (first) checks and (then) plastic (credit or debit cards).

There is certainly no technological obstacle for savings or checking account balances and credit or debit card balances be denominated in gold. Thus, we don't necessarily need a smaller gold coin than either the quarter- or tenth-eagle, as undoubtedly large numbers of Americans would continue to use their gold cards (now with literal meaning [as least as far as the cards are valued, anyway]).

The specification of our monetary unit is actually quite important, and thus should not be entered lightly.

Considering the unit of value, three alternatives seem natural for gold. The first is the "(gold) dollar", the second the "eagle", and the third a "grain".

Between the "gold dollar" and the "eagle" terms for the unit, the "dollar" has the baggage of being the unit of Federal Reserve note dollars (offering the greatest source of confusion).

The "eagle" has a relatively insignificant amount of gold bullion eagles (in comparison with the amount of Federal Reserve note dollars, anyway) struck by the mint in the last few decades. The coinage eagle of 258 grains of gold 900 fine, historically being ten dollars, would present itself at far too high a unit (roughly at half an ounce, or some $800 worth in current Federal Reserve notes) for a practical unit. The "eagle" could be made a smaller unit of gold, of course, rather than at its historical value.

Using either a "dollar" or "eagle" as our monetary unit for new gold coin increases the probability of confusion.

Since the gold dollar of 25.8 grains of gold 900 fine is worth some 80 Federal Reserve note dollars today, our real unit (if a "dollar" was picked) would more likely be the hundredth-part of the dollar, the "cent" (in gold, tho').

Re-specifying the gold dollar to roughly equal the old cent should provide readers with an understanding of the possible confusion which would inevitably resort from giving new meanings to old names.

As Thomas Jefferson stated in his report entitled ***Notes on the establishment of a Money Mint, and of a coinage for the United States***:

> "It is difficult to familiarize a new coin to the people. It is more difficult to familiarize them to a new coin with an old name".

This author agrees with Jefferson that to familiarize people with a new coin with an old name will likely cause excessive confusion for too many people (who would thus again be unnecessarily exposed to the unscrupulous).

Thus the author's decided preference toward use of the "grain" as our gold monetary unit, not only because it leads to less confusion, but more importantly because it properly supports our monetary standard being but a unit of weight of properly-fine gold. The grain could be easily broken into tenths, hundredths, and thousandths for proper accounting purposes.

Another advantage of using the grain as our unit of value is that gold bars, bullion coins, and all other assayed and stamped forms of gold with a stated number of grains (pennyweights or ounces) of fine gold would have an easily-calculable value, regardless of what standard of gold they contained.

In Hamilton's January 28, 1791 report on the ***Establishment of a Mint***, Hamilton acknowledged that the Secretary of State (Jefferson) had (in a separate report, on establishing uniformity in weights, measures, and coins) "proposed that the weight of the dollar should correspond with the unit of weight" (see Appendix C, Volume II for Hamilton's report).

In regards to this concept, Hamilton writes "a small alteration, for the sake of incorporating so systematic an idea, would appear desirable" but that "the execution of that idea becomes more difficult". *Ibid*.

This difficulty in execution then was due to the wide renown of the Spanish milled "dollar" after which the American silver dollar was modeled (thus, a similar-named coin should be of similar weight and value with this world standard, not modified to match a unit of our weight).

Also interfering in execution of this idea was the fixed ratio of the bi-metallic standard between gold and silver (then fixed precisely at one part of gold equivalent to fifteen parts of silver).

Thus, Hamilton did not object to Jefferson's idea for our monetary unit to correspond to a unit of weight, except for problems which we no longer today face.

The value of one grain of fine gold in today's Federal Reserve note dollars equates with somewhere more than three of our current paper dollars, depending upon the varying value of the paper dollar at any given time, in terms of gold.

Thus, if someone earned $17 per hour of work at his job as does this truck driver, his new wage would be in the neighborhood of 5.50 grains per hour. This would represent a nice roll

back in prices (though in differing units), but still should be within easy re-figuring processes for most people.

The biggest problem, of course, with either "silver dollars", "gold dollars", "gold eagles" or "grains" of gold as the new unit in our standard of value is that existing debts would have to be refigured if debtors or creditors sought payment in the new money of account, so neither debtors or creditors were improperly burdened or rewarded.

Though this dilemma presents as a possible source of contention, it is not at all unprecedented.

When the United States converted from using pounds, shillings and pence and over into the dollar divisible by tenths, hundredths, and thousandths, our ancestors were confronted with the same predicament (and, lo and behold, they survived through it).

There are two main methods to resolve sources of contention, one fixed by government statute and the other left to market forces (to come up with the exchange rate).

This author argues against widespread use of government dictate (though cannot argue with its efficiency), as those with less political "pull" will inevitably lose out (unless the tide turns so completely that they are let from their debts almost scot-free). It is acknowledged that Congress will necessarily have to offer some sort of exchange mechanism, at least for government debt.

Market forces have a greater chance of keeping things equitable between the opposing parties, especially if time is allowed to sort things out in transition (especially as new contracts are made in the new monetary unit, and old debts are paid off in the old).

This author is also, of course, endorsing a re-introduction of gold clauses (into new contracts), but prefers it now be literally for a weight of fine gold in grains.

In the June 5, 1933 resolution of Congress, Congress supposedly prohibited the further use of gold clauses. The supreme Court upheld this resolution only because it was not proved (nor even alleged) that Congress had acted in an arbitrary and capricious manner.

Given the information found in ***Monetary Laws***, it should not be overly difficult to show that Congress acted precisely in such an arbitrary and capricious fashion.

There is no clause in the Constitution which allows the government to withdraw our money, merely the most liquid form of our property. Government is instituted to protect person and property, not impoverish one and prohibit the other.

Gold clauses had well-proven themselves as sufficient means to protect creditors from the ill effects of a depreciating paper currency even after those notes were declared a legal tender. The supreme Court upheld no method around them until the Great Deception of 1933.

Thus, no technological or legal barriers exist today for establishment of such an alternative system, even though the smallest practical gold coin would be some 25 grains of fine gold.

Logically, coins in multiples at 100, 250, and 500 grains of fine gold would be proper.

An alternative denomination of coins of 24, 120, 240, and 480 grains (1/20-, 1/4-, 1/2-, and one troy ounce) would seem to be a logical alternative system of coin. This, however, would really establish the "ounce" as the unit (the smaller coins simply being its fractions). Would one really want a coin worth today some $1,600 being our unit?

By distancing the unit away from the troy ounce, we gain the efficiencies of using round numbers by coins of 25, 100, 250 and 500 grains (roughly equivalent to the old dollar gold coin, the a four-dollar gold "Stella" coin, $10 eagle, and double eagle gold $20 coin). This efficiency is no small matter and easily trumps divisions of an "ounce".

Of course, if gold certificates were again allowed (though they should be only strictly issued in one-to-one ratios with an equivalent amount of gold as stated on the face of the certificate), larger units of 1,000 grains, 10,000 grains, 100,000 grains or other such values would also perhaps be appropriate as found necessary.

The practical difficulty with this gold standard for coins is as the same as it has always been — the difficulty in small transactions. Gold coins could not be used for minor purchases or change, simply because gold is too valuable and the smallest practical gold coin struck by our mint, the tiny dollar of 25.8 grains of standard gold, was so small that continued striking of this coin (first began in 1849) ceased forty years later.

The alternatives to impractically-small coin then would be gold certificates, bank checks or gold cards (all denominated in grains of fine gold [divisible again by 1/10$^{\text{ths}}$, 100$^{\text{ths}}$, and 1,000$^{\text{ths}}$], in this case).

That small gold coins cannot be effectively struck is why this author cannot recommend this system as long as our government cannot be trusted, for one cannot easily protect oneself with this system, as government could simply move away from one-to-one backing of certificates and account balances (again devolving into but a fractional reserve, rather than direct 1:1 ratio).

Thus, it is better to use a system which allows each private individual better protection, even if it is less stable than the theoretically-best system which requires honest government. The less-stable system which provides superior protection to the individual provides greater protection to those who demand it.

To best provide autonomy similar with coin, gold cards should be available not only in connection to one's name and bank or credit account, but should also be available in bearer-type forms without being attributed to either (a gift-type of card, if you will).

Gold accounts offer a greater velocity of money; such that lower amounts of physical gold will be used with greater efficiency than would be otherwise possible with coin.

It is important to realize that when America switched from our money of account being pounds, shillings and pence to dollars, both were coins of silver of specific weight and purity. Thus, conversion between the two systems was but a simple equation in math.

We are no longer in that state of luxury today, unfortunately, as we are contemplating re-introducing a true standard of value where none has been long used.

This doesn't mean, however, that the same issues which confront us today did not also confront Americans in the 1790's.

Recall in 1790 that the early Americans had relatively massive amounts of debts based upon paper certificates, bills of credit and exchange, and similar evidences of debt which had to be discounted to their specie value and paid in their market worth of precious metals.

This would be the same as presents with us today.

The deeply impoverished government then, however, had to create not only the whole legal structure (Constitution, coinage acts, etc.) necessary for carrying out its plan, but then also had to create and man the administrative agencies, obtain the necessary mint tools, erect the buildings, hire and train the personnel, etc.

Today our government is over-staffed and could transfer such personnel as necessary to properly man what needs to be built up. Our mints today are also capable of striking up to 20 billion of coins per year even at their current capacities.

The United States also have, according to World Gold Council statistics (February, 2012), an estimated 8,133.5 metric tons of gold in Fort Knox, the Federal Reserve or other depositories (or at least we are led to believe). What claims exist against this gold, however, this author does not know.

The act of **August 4, 1790** was the first act to finance that outstanding public debt (1 Stat. 138). After providing new funding for the old debts (and new securities as evidences for new loans), Sections 8 – 10 gave existing creditors the option of keeping their existing securities if they preferred, with **Section 9** stating, in part:

> "That nothing in this act contained shall be construed in any wise to alter, abridge or impair the rights of those creditors of the United States, who shall not subscribe to the said loan, or the contracts upon which their respective claims are founded; but the said contracts and rights shall remain in full force and virtue".
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> Volume I, Statutes at Large, Page 141

Thus, government provided the means for existing government creditors to accept the new securities; however, if the creditors preferred their old securities and terms, they were free to remain with what they had. In time, the old securities were paid off such that only the new remained.

While creditors who loaned the government money were dealt with as fairly as perhaps was then possible, holders of paper currency — continental bills of credit — were ordered to be paid in Section 3 of the 1790 act only "at the rate of one hundred dollars in the said bills, for one dollar in specie".

Thus establishes the precedent — holders of government bonds, treasury bills and other more formal government securities fared far better than mere holders of currency, who were paid at drastically lower rates.

While the 1790 act dealt with government creditors, the private creditors and debtors were left alone to figure their own way, which they did.

As debts are only for a term, with the passage of time means that, one way or another, things are soon resolved and we are free to move forward on the correct path.

The main point is to realize that conversion to a new standard of value and money of account proceeded without a great amount of fanfare, even if it took some time to fully convert.

There are no technological or legal barriers to prevent its reoccurrence, just fear of the unknown by those who have learned well to distrust their government.

Even if some persons feel shortchanged in the transition, however, it is important to understand that with government finally limited to the Constitution, our future looks simply amazing.

To be stuck in today's lousy economic climate with no chance for paying off debts (only to be shifted from person to person), simply for fear that one may suffer some economic setback is to ignore the spectacular payday offered by freedom.

Indeed many of our ancestors left not only their homes and precious heirlooms in their foreign homelands, but many left (at least extended) family, precisely in search of that freedom and the chance to begin anew.

We Americans today have that same experience awaiting us, if we only but grab it (only we needn't leave anyone behind and move to a new land).

Without oppressive government confiscating the productive capacity of business and employees, it would be at least like getting twice as much money as one gets now for similar effort, with money that went twice as far. Even if one did go through some hardship in the conversion, in very short order most every productive individual would be in far better shape than they were ever before.

Those incapable of being productive would inevitably be better cared for, as wealth increased and people were thankful of their opportunity and felt compassion for those who were truly less fortunate. Work would be plentiful, as far fewer roadblocks would be set in front of those who sought to better their lives.

In the interim, if we cannot stop government from acting beyond its normal restrictions before the economy crashes in about us, the holding of some cash is prudent. However, one should probably again avoid holding too much, for what isn't wiped out by inflation may be repudiated to anything more than its gold equivalency (as well as inviting theft, at least for those of some means as would provide a target).

As our monetary troubles deepen, beware of a veritable flood of stashed dollars pouring into the market, not only locally, but especially from overseas. These American dollars circulating overseas will need to be dealt with in some fashion at some time. Though we were long successful at shipping our inflation overseas (keeping it more modest here), one must realize that this debt of ours *will inevitably come home to roost*.

Even though some temporary confusion will be expected in a switch-over to a silver or gold monetary system, this author is confident we will nevertheless be off and running again in no time and will be so busy and prosperous that we will never look back.

America's future path under limited government and individual liberty is simply far too magnificent for anything to now stop us from getting there and any conversion difficulties will be insignificant.

Daniel Webster, in a speech at Madison, Indiana on **June 1, 1837**, stated (italics added):

> "I apprehend no danger to our country from a foreign foe...*Our destruction, should it come at all, will be from another quarter. From the inattention of the people to the concerns of their government, from their carelessness and negligence, I must confess that I do apprehend some danger. I fear that they may place too implicit a confidence in their public servants, and fail properly to scrutinize their conduct ; that in this way they may be made the dupes of designing men*, and become the instruments of their own undoing. Make them intelligent, and they will be vigilant ; give them the means of detecting the wrong, and they will apply the remedy."
>
> *The Works of Daniel Webster*, Daniel Webster. Little, Brown & Co., Boston, 1853. Volume I, Pages 403 - 404.

As the sage Mr. Webster relays, our destruction, if it should come, may well come from our inattention to scrutinize the conduct of our public servants, becoming the dupes of designing men as they seek to rule over us to their advantage.

The remedy, as stated by Daniel Webster, is to make the people intelligent, to give them the means of detecting the wrong, so that the people may then apply the remedy.

It is therefore proper to learn the methods of those who would enslave us that we might throw off that wholly-inappropriate yoke of oppression.

Webster's wise counsel declares that once the problem is understood, Americans will work indefatigably to find the cure, especially when our very liberty is at stake.

This simple pauper without any special attribute but an innate stubborn resolve for liberty has written ***Monetary Laws*** precisely for such a purpose, to provide people the means of detecting the wrong, so that the proper remedy may then be applied.

If this ordinary truck-driver can write ***Monetary Laws*** in his off hours and perhaps help re-orient our constitutional compass to regain our proper bearings, undoubtedly all others may likewise help clear the inappropriate growth of obstructive underbrush, such that we may find our way out of the dense forest and go into the Promised Land.

Please help find your part in exposing government unjustly operating within an intended loophole but in a wholly inappropriate way, so we may reclaim our proper American birthright, of Liberty and Justice for All.

THE END

For an

Appendix of Monetary Laws

please *see*: ***Monetary Laws***, ***Volume II***

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About the Author

Matt Erickson is a truck driver who lives in Vancouver, Washington with his wife, Pam. He has two step-children and five grandchildren (with a sixth on the way); all who deserve liberty.

Monetary Laws of the United States, Volume II, contains a compilation of America's monetary laws all in one place, for greater ease of study.

The book is dividing into the following Appendices:

Appendix	Topic
A.	Organic Documents
B.	Mint Statistics through 1902
C.	Preliminary Coinage Reports
D.	Primary Coinage Acts
E.	Secondary Coinage Acts
F.	Foreign Coinage Acts
G.	Commemorative Coinage Acts from 1891-1954
H.	Modern Commemorative Coinage Acts
I.	Acts regarding Mints and Assay Offices
J.	Acts Regarding Notes
K.	Criminal Monetary Jurisdiction Acts
L.	The Great Deception & the Duping of America
M.	Miscellaneous Acts
N.	Monetary Portions of Title 31 of the United States Code